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REPT. 100-937
Part 1

VETERANS' HEALTH-CARE PROGRAM AMENDMENTS OF 1988

SEPTEMBER 16, 1988.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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Mr. MONTGOMERY, from the Committee on Veterans' Affairs, submitted the following

REPORT

[To accompany H.R. 5114]

[Including cost estimate of the Congressional Budget Office]

The Committee on Veterans' Affairs, to whom was referred the bill (H.R. 5114) to amend title 38, United State Code, to improve programs for the recruitment and retention of health-care personnel of the Veterans' Administration, to extend certain expiring programs of the Veterans' Administration, and for other purposes, having considered the same, reports favorably thereon with an amendment, by unanimous voice vote, and recommends that the bill as amended do pass.

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE; REFERENCES TO TITLE 38, UNITED STATES CODE; DEFINITION OF ADMINISTRATOR.

(a) SHORT TITLE.—This Act may be cited as the "Veterans' Health-Care Programs Amendments of 1988".

(b) REFERENCES TO TITLE 38.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

(c) ADMINISTRATOR DEFINED.—For purposes of this Act, the term "Administrator" means the Administrator of Veterans' Affairs.

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TITLE I—PERSONNEL PROVISIONS

SEC. 101. SPECIAL PAY FOR NURSES.

Section 4118 is amended as follows:

(1) The heading is amended to read as follows:

"§ 4118. **Special pay for physicians, dentists, and nurses".**

(2) Subsection (a)(1) is amended—

(A) by striking out "physicians and dentists" after "highly qualified" and inserting in lieu thereof "physicians, dentists, and nurses";

(B) by striking out "physician or dentist" both places it appears and inserting in lieu thereof "physician, dentist, or nurse"; and

(C) by inserting after clause (B) the following: "or (C) $7,000 per year to any nurse so employed on a full-time basis (or in the case of a nurse employed on a part-time basis, a proportional amount of the maximum benefit that would be paid under this section to such nurse if such nurse were employed on a full-time basis, calculated on the basis of the proportion which the part-time employment of such nurse in the Department of Medicine and Surgery bears to full-time employment)".

(3) Subsection (a)(2) is amended by striking out "physician or dentist" and inserting in lieu thereof "physician, dentist, or nurse".

(4) Subsection (a)(3) is amended by striking out "and dentists" both places it appears and inserting in lieu thereof ", dentists, and nurses".

(5) Subsection (b) is amended—

(A) in paragraph (2), by inserting "or $1,500 to any eligible full-time nurse," after "dentist,"; and

(B) in paragraph (3)—

(i) by inserting "or of $1,500 to any eligible part-time nurse," after "dentist," the first place it appears; and

(ii) by striking out "physician or dentist" and inserting in lieu thereof "physician, dentist, or nurse".

(6) Subsection (c) is amended—

(A) by redesignating paragraph (5) as paragraph (7); and

(B) by inserting after paragraph (4) the following new paragraphs:

"(5) In the case of eligible full-time nurses appointed under this chapter, the Administrator shall provide, in addition to the primary special pay provided for in subsection (b)(2) of this section and in accordance with regulations prescribed to carry out this section, incentive special pay of not more than $5,500 to any eligible nurse. In prescribing such regulations to carry out this paragraph, the Administrator shall take into account only the following factors and may pay no more than the following per year amounts of incentive special pay to any full-time nurse eligible for such pay:

"(A) For tenure of service within the Department of Medicine and Surgery of two years or more but less than five years, $500.

"(B) For tenure of service within the Department of Medicine and Surgery of five years or more, $1,000.

"(C) For service in intensive care units, critical care units, emergency rooms, or operating rooms or in a nursing specialty with respect to which the Chief Medical Director has determined that there are extraordinary difficulties in the recruitment or retention of qualified nurses, $4,000.

"(D) For service in a specific geographic location with respect to which the Chief Medical Director has determined, pursuant to such regulations, that there are extraordinary difficulties in the recruitment or retention of qualified nurses, $1,500.

"(E) For service in a head nurse position $1,500.

"(6) In the case of eligible part-time nurses appointed under this chapter, the Administrator shall provide, in addition to the primary special pay provided for in subsection (b)(3) of this section and in accordance with regulations prescribed to carry out this section, incentive special pay of not more than $5,500 to any eligible nurse. In prescribing such regulations to carry out this paragraph, the Administrator shall take into account only the following factors and may pay no more than a proportional amount of the following per year amounts of incentive special pay to any nurse eligible for such pay, which proportional amount shall be calculated on the basis of the proportion which the part-time employment in the Department of Medicine and Surgery of such nurse bears to full-time employment:

"(A) For tenure of service within the Department of Medicine and Surgery of two years or more but less than five years, $500.

"(B) For tenure of service within the Department of Medicine and Surgery of five years or more, $1,000.

"(C) For service in intensive care units, critical care units, emergency rooms, or operating rooms or in a nursing specialty with respect to which the Chief Medical Director has determined that there are extraordinary difficulties in the recruitment or retention of qualified nurses, $4,000.

"(D) For service in a specific geographic location with respect to which the Chief Medical Director has determined, pursuant to such regulations, that there are extraordinary difficulties in the recruitment or retention of qualified nurses, $1,500.

"(E) For service in a head nurse position $1,500.".

(7) Subsection (d) is amended—

(A) by striking out "physician or dentist" each place it appears and inserting in lieu thereof "physician, dentist, or nurse"; and

(B) by striking out "or (c)(4)(C)" and inserting in lieu thereof ", (c)(4)(C), (c)(5)(D), or (c)(6)(D)".

(8) Subsections (e)(1) and (e)(2) are amended by striking out "physician or dentist" each place it appears and inserting in lieu thereof "physician, dentist, or nurse".

(9) Subsection (e)(4) is amended by adding at the end the following new subparagraph:

"(D) any nurse who becomes employed in the Department of Medicine and Surgery after the date of the enactment of this subparagraph and who enters into an agreement under this section is entitled to special pay beginning on the date on which the agreement is entered into, or the date on which the nurse becomes employed, whichever date is later.".

(10) Subsection (e) is further amended by adding at the end the following new paragraphs:

"(5) An agreement may only be entered into with a nurse under this section if the nurse is a registered nurse and is an employee of the Department of Medicine and Surgery whose duty assignments involve direct patient care.

"(6) A nurse who is eligible for additional pay under section 4107(g)(1) of this title and special pay under this section may not receive such special pay under this section unless the nurse waives receipt of additional pay under section 4107(g)(1) of this title in an amount equal to the amount of special pay payable under this section.".

(11) Such section is further amended by adding at the end the following new subsection:

"(i) During fiscal year 1989—

"(1) subsection (b) shall be applied by substituting '$1,000' for '$1,500' in paragraphs (2) and (3); and

"(2) subsections (c)(5) and (c)(6) shall be applied—

"(A) by substituting '$500' for '$1,000' in subparagraph (B);

"(B) by substituting '$2,000' for '$4,000' in subparagraph (C); and

"(C) by substituting '$1,000' for '$1,500' in subparagraphs (D) and (E).".

SEC. 102. PREMIUM PAY FOR LICENSED PRACTICAL OR VOCATIONAL NURSES AND NURSE ASSISTANTS.

(a) IN GENERAL.—Section 4107(e) is amended by adding at the end the following new paragraph:

"(11) For purposes of this subsection, an employee of the Department of Medicine and Surgery who is a licensed practical or vocational nurse or a nurse assistant shall be treated in the same manner as a registered nurse.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on October 1, 1988.

SEC. 103. CLARIFICATION OF CERTAIN LIMITATIONS WITH RESPECT TO EMPLOYMENT.

(a) LIMITATIONS ON OUTSIDE EMPLOYMENT.—Section 4108 is amended by adding at the end the following new subsection:

"(e) Any provision of this title limiting employment outside of the Veterans' Administration by an employee of the Veterans' Administration shall not apply to an employee who is appointed under the provisions of title 5 and paid under the provisions of this title.".

(b) COMPENSATION OF EMPLOYEES WHO ARE RETIRED MILITARY PERSONNEL.—(1) Section 4107(i) is amended by inserting "or registered nurse" after "physician".

(2) The amendment made by paragraph (1) shall take effect on the first day of the first pay period beginning on or after the date of the enactment of this Act.

SEC. 104. PARKING FEES AT MEDICAL FACILITIES.

(a) WAIVER FOR CERTAIN HEALTH-CARE WORKERS.—Section 5009(c) is amended—

(1) in paragraph (1), by striking out "paragraph (2)" and inserting in lieu thereof "paragraphs (2) and (3)";

(2) by redesignating paragraph (3) as paragraph (4); and

(3) by inserting after paragraph (2) the following new paragraph (3):

"(3) A parking fee under this subsection may be waived in the case of any health-care employee who is eligible for an increase in basic pay under section 4107(g)(1) of this title.".

(b) EXCLUSION OF CERTAIN LEASED FACILITIES.—(1) Section 5009(d) is amended by adding at the end the following new paragraph.

"(3) A schedule of parking fees prescribed pursuant to paragraph (1) of this subsection for a parking facility acquired by lease may be in effect only during the period of the original term of the first lease by the Veterans' Administration of that facility.".

(2) Section 5009(e) is amended by adding at the end the following new sentence: "A schedule of parking fees prescribed pursuant to this subsection for a parking facility acquired by lease may be in effect only during the original term of the first lease by the Veterans' Administration of that facility.".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 1988.

SEC. 105. CONVERSION OF NONPHYSICIAN HOSPITAL DIRECTORS TO SENIOR EXECUTIVE SERVICE.

(a) CONVERSION.—Section 4101(e) is amended by striking out "and persons appointed under section 4103(a)(8) of this chapter".

(b) CONFORMING AMENDMENTS.—(1) Section 4103(a) is amended—

(A) by striking out paragraph (8); and

(B) by redesignating paragraph (9) as paragraph (8).

(2) Section 4107(c) is repealed.

(d) APPLICABILITY TO CURRENT DIRECTORS.—Each nonphysician director appointed under section 4103(a)(8) of title 38, United States Code, as in effect on the day before the date of the enactment of this Act, is hereby designated as a career appointee in the Senior Executive Service established under chapter 31 of title 5, United States Code. The provisions of section 3393(d) of such title shall not apply to a director designated as a career appointee pursuant to the preceding sentence.

(e) PRESERVATION OF PAY.—The amendments made by this section shall not result in a reduction in the rate of pay payable to any person.

SEC. 106. EXCLUSION FROM PERSONNEL CEILING.

Section 5011(d) is amended by adding at the end the following new paragraph:

"(6) To the extent that the Veterans' Administration employs additional personnel at any medical center in order to support services provided to the Department of Defense under an agreement under this subsection, such personnel may not be counted for the purposes of any limitation on the number of full-time equivalent employees that the Veterans' Administration may have for any fiscal year.".

SEC. 107. APPOINTMENT OF CERTAIN INDIVIDUALS IN HEALTH-CARE POSITIONS.

Section 4106 is amended by adding at the end the following new subsection:

"(h)(1) The Administrator may appoint qualified individuals in the competitive civil service without regard to the provisions of subchapter I of chapter 33 of title 5 (other than sections 3303 and 3328 of such title).

"(2) For purposes of this subsection, qualified individuals are individuals—

"(A) who have a recognized degree or certificate from an accredited institution in a health-care profession or occupation; and

"(B) who were appointed to and have successfully completed a clinical education program affiliated with the Veterans' Administration.

"(3) In using the authority provided by this subsection, the Administrator shall apply the principles of preference for the hiring of veterans and other persons established in subchapter I of chapter 33 of title 5.

"(4) The Administrator may appoint an individual under this section only upon the recommendation of the Chief Medical Director.".

TITLE II—HEALTH PROGRAM AMENDMENTS

SEC. 201. EXTENSION OF EXPIRING PROGRAMS.

(a) ALCOHOL AND DRUG ABUSE TREATMENT.—Section 620A(e) is amended by striking out "September 30, 1988" and inserting in lieu thereof "September 30, 1991".

(b) VETERANS MEMORIAL MEDICAL CENTER IN THE PHILIPPINES.—(1) Subsections (a) and (b)(1) of section 632 are each amended by striking out "September 30, 1989" and inserting in lieu thereof "September 30, 1992".

(2) Subsection (b)(1) of such section is further amended by striking out "$500,000" and inserting in lieu thereof "$1,000,000,".

SEC. 202. COMMUNITY NURSING HOMES.

(a) RESCISSION OF REGULATION.—The amendment to Veterans' Administration medical regulations relating to the use of community nursing home care facilities that was effective as of May 23, 1988, and which is further described in subsection (b) is hereby rescinded, and the provisions of regulations replaced by such regulations described in subsection (b) are hereby restored.

(b) REGULATION DESCRIBED.—Subsection (a) applies to the amendment to title 38 of the Code of Federal Regulations section 17.51a published in the Federal Register on April 21, 1988 (53 Fed. Reg. 13120).

SEC. 203. COMPENSATED WORK THERAPY PROGRAM.

(a) AUTHORIZED SOURCES FOR PROVISION OF THERAPEUTIC WORK.—Subsection (b)(1) of section 618 is amended by striking out "contractual arrangements with private industry or other sources outside the Veterans' Administration" and inserting in lieu thereof "a contract or other arrangement with any appropriate source (whether or not an element of the Veterans' Administration or of any other Federal entity)".

(b) USE OF REVOLVING FUND.—Subsection (c)(1) of such section is amended by striking out "carrying out the provisions of" and inserting in lieu thereof "furnishing rehabilitative services authorized in".

TITLE III—HEALTH-CARE MANAGEMENT

SEC. 301. PILOT PROGRAM FOR IMPROVED MANAGEMENT SYSTEM FOR COLLECTION OF FEES.

(a) PILOT PROGRAM.—The Administrator shall carry out a pilot program for the establishment of an improved management system for the administration of fees and other amounts payable to the United States arising from programs administered by the Department of Medicine and Surgery under the provisions of title 38, United States Code. The pilot program shall be carried out in one medical region of the Department of Medicine and Surgery. The pilot program shall be carried out during fiscal years 1989 and 1990.

(b) AUTOMATED PROGRAM FOR BILLING AND COLLECTION.—(1) As part of the management system established under subsection (a), the Administrator shall provide for the development of an automated program to carry out billing and collection of fees and other amounts. The automated program shall have the capability to process (A) fees charged to third parties and to government and private agencies which have sharing agreements with the Veterans' Administration, (B) amounts recoverable by the United States under section 629 of title 38, United States Code, and (C) amounts payable as first-party medical copayments authorized in such title.

(2) In developing such automated billing and collection program, the Administrator shall use billing and collection expertise and services of the private sector.

(c) ALLOCATION OF AMOUNTS COLLECTED.—The Administrator shall allocate amounts received by the Veterans' Administration through the pilot program as follows:

(1) 25 percent shall be covered into the Treasury as miscellaneous receipts.

(2) 25 percent shall be allocated to funds and accounts of the Veterans' Administration medical center through which the amounts were collected.

(3) 50 percent shall be allocated to funds and accounts available to the Chief Medical Director.

(d) USE OF AMOUNTS RETAINED.—The Administrator may obligated amounts retained by the Veterans' Administration and allocated pursuant to paragraph (2) or (3) of subsection (c).

The Administrator shall require that such amounts be used—

(1) for pay and other personnel benefits to enhance the recruitment and retention of health-care employees of the Department of Medicine and Surgery; or

(2) to supplement the medical equipment accounts of medical centers at which such accounts are deficient.

(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated the sum of $500,000 to carry out the pilot program under this section.

SEC. 302. CHAMPVA PROGRAM.

(a) LIST OF BENEFICIARIES.—The Administrator shall compile an accurate and complete list of individuals eligible as of October 1, 1988, for benefits under section 613 of title 38, United States Code. Such list shall be compiled not later than October 1, 1988, and shall be maintained and periodically updated thereafter. The Administrator may pay benefits under that section only to persons whose names are included on the list.

(b) PROGRAM REVIEW.—Not later than October 1, 1988, the Administrator shall establish a procedure for the periodic review of the need for, the cost effectiveness of, and the appropriateness of the provision of health care by the Administrator under section 613 of such title.

(c) INSPECTOR GENERAL REVIEW.—Not later than December 1, 1988, the Inspector General of the Veterans' Administration shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the compliance of the Administrator with subsections (a) and (b). If the report indicates that the Administrator is not in compliance with either such subsection, the Administrator shall promptly submit to those committees a report explaining the reason for any such noncompliance and the plans of the Administrator to correct the deficiency.

(d) STUDY OF ALTERNATIVES.—(1) The Administrator shall carry out a study of alternative methods for providing for the costs of health care which are currently provided under section 613 of such title. In carrying out the study, the Administrator shall consider methods which would result in a substantially unchanged cost to the United States while providing improved health benefits at lower costs to beneficiaries.

(2) The Administrator shall submit a report on the results of the study to Congress not later than one year after the date of the enactment of this Act.

(3) There is authorized to be appropriated the sum of $500,000 to carry out the study under this subsection.

SEC. 303. ELIGIBILITY OF MILITARY DEPENDENTS FOR HEALTH CARE UNDER SHARING AGREEMENTS.

Section 5011(g)(5) is amended by inserting after "title 10" the following: "or a dependent (as defined in section 1072(2) of such title) who is eligible for care under section 1076 of such title".

SEC. 304. TRANSFER OF TITLE TO CERTAIN MEDICAL EQUIPMENT.

(a) AUTHORITY.—Notwithstanding any other provision of law, the Administrator may transfer all right, title, and interest of the United States in and to any medical equipment described in subsection (b) to the college or university holding such equipment on the date of the enactment of this Act. Any such transfer shall be without compensation or reimbursement to the United States.

(b) MEDICAL EQUIPMENT COVERED.—This section applies with respect to medical equipment acquired by the Administrator for the purposes of the pilot program established under subchapter I of chapter 82 of title 38, United States Code, and made available by the Administrator to a State college or university as part of the assistance provided that college or university under section 5073(a) of such title.

SEC. 305. CANTEEN SERVICE.

(a) LIMITATION ON EMPLOYMENT.—Section 4203 is amended by adding at the end the following new subsection:

"(c) A contract or other agreement may not be made by or on behalf of the Service for performance by an individual not directly employed by the United States of any activity otherwise performed by an individual employed by the United States who is compensated with nonappropriated funds.".

(b) INDEPENDENT STATUS WITHIN THE VETERANS' ADMINISTRATION.—Section 4208 is amended—

(1) by striking out "It is the purpose of this chapter that, under" and inserting in lieu thereof "Under the"; and

(2) by adding at the end the following: "The head of the Service may not be required to report to or be supervised by any official of the Veterans' Administration other than the Administrator and Deputy Administrator.".

SEC. 306. AGENT ORANGE RESEARCH.

Funds previously appropriated to the Veterans' Administration for medical and prosthetic research and obligated through the Centers for Disease Control for a contract for the conduct of an epidemiological study relating to exposure of veterans to the herbicide known as Agent Orange shall, upon the cancellation of that contract, be available for obligation until September 30, 1989, in the amount of $3,000,000 for payment of expenses of the Department of the Air Force in connection with blood tests of individuals who, while serving in the Air Force, participated in the spraying of Agent Orange in Vietnam during the Vietnam era.

SEC. 307. SATELLITE OUTPATIENT CLINIC, TOLEDO, OHIO.

(a) CHANGE IN STATUS OF CLINIC.—The Administrator shall change the status of the Veterans' Administration satellite outpatient clinic located on Glendale Avenue in Toledo, Ohio, to that of an independent clinic.

(b) FUNDING.—Within the funds available for operation of Veterans' Administration medical facilities in any fiscal year, the Administrator shall ensure that adequate funding is provided for the efficient operation of such clinic after its change in status to that of an independent clinic.

SEC. 308. LAND TRANSFER, RUTHERFORD, TENNESSEE.

(a) AUTHORITY.—Subject to subsection (b), the Administrator shall transfer to the State of Tennessee all right, title, and interest of the United States in and to a tract of land consisting of not to exceed seven acres, together with improvements thereon, in the Southeast corner of the Alvin C. York Veterans' Administration Medical Center in Rutherford County, Tennessee. Such transfer shall be made without consideration.

(b) PERMITTED USE.—The transfer under subsection (a) may only be made subject to the condition (1) that the property transferred be used by the State of Tennessee for a nursing care facility in accordance with the conditions and limitations applicable to State of Tennessee for a nursing care facility in accordance with the conditions and limitations applicable to State home facilities constructed with assistance under subchapter III of chapter 81 of title 38, United States Code, and (2) that if that property is used at any time for any other purpose, all right, title, and interest in and to that property shall revert to the United States.

(c) ADDITIONAL CONDITIONS.—The transfer under subsection (a) shall be made under such additional terms and conditions as the Administrator considers appropriate to protect the interests of the United States.

SEC. 309. USE OF INFORMATION TO VERIFY INCOME FOR PURPOSES OF NEEDS-BASED BENEFITS AND SERVICES.

(a) DISCLOSURE OF TAX INFORMATION.—(1) Subparagraph (D) of section 6103(1)(7) of the Internal Revenue Code of 1986 (relating to disclosure of return information to Federal, State, and local agencies administering certain programs) is amended—

(A) by striking out "and" at the end of clause (vi),

(B) by striking out the period at the end of clause (vii) and inserting in lieu thereof "; and", and

(C) by adding at the end the following new clause:

"(viii)(I) any needs-based pension provided under chapter 15 of title 38, United States Code, or any other law administered by the Veterans' Administration;

"(II) parents' dependency and indemnity compensation provided under section 415 of title 38, United States Code;

"(III) health-care services furnished under sections 610(a)(1)(I), 610(a)(2)(A), 610(b), and 612(a)(2)(B) of such title; and

"(IV) compensation pursuant to a rating of total disability awarded by reason of inability to secure or follow a substantially gainful occupation as a result of a service-connected disability, or service-connected disabilities, not rated as total (except that, in such cases, only wage and self-employment information may be disclosed).".

(2) The heading of paragraph (7) of section 6103(1) of such Code is amended by striking out "OR THE FOOD STAMP ACT OF 1977" and inserting in lieu thereof ", THE FOOD STAMP ACT OF 1977, OR TITLE 38, UNITED STATES CODE".

(b) NOTICE AND VERIFICATION OF INCOME INFORMATION.—(1) Chapter 53 is amended by adding at the end the following new section:

"§ 3117. Use of income information from other agencies: notice and verification

"(a) The Administrator shall notify each applicant for a benefit or service described in subsection (c) of this section that income information furnished by the applicant to the Administrator may be compared with information obtained by the

Administrator from the Secretary of Health and Human Services or the Secretary of the Treasury under section 6103(l)(7)(D)(viii) of the Internal Revenue Code of 1986.

"(b) The Administrator may not, by reason of information obtained from the Secretary of Health and Human Services or the Secretary of the Treasury under section 6103(l)(7)(D)(viii) of the Internal Revenue Code of 1986, terminate, deny, suspend, or reduce any benefit or service described in subsection (c) of this section until the Administrator takes appropriate steps to verify independently information relating to the following:

"(1) The amount of the asset or income involved.

"(2) Whether such individual actually has (or had) access to such asset or income for the individual's own use.

"(3) The period or periods when the individual actually had such asset or income.

"(c) The benefits and services described in this subsection are the following:

"(1) Needs-based pension benefits provided under chapter 15 of this title or any other law administered by the Veterans' Administration.

"(2) Parents' dependency and indemnity compensation provided under section 415 of this title.

"(3) Health-care services furnished under sections 610(a)(1)(I), 602(a)(2)(A), 610(b), and 612(a)(2)(B) of this title.

"(4) Compensation pursuant to a rating of total disability awarded by reason of inability to secure or follow a substantially gainful occupation as a result of a service-connected disability, or service-connected disabilities, not rated as total.

"(d) In the case of compensation described in subsection (c)(4) of this section, the Administrator may independently verify or otherwise act upon wage or self-employment information referred to in subsection (b) of this section only if the Administrator finds that the amount and duration of the earnings reported in that information clearly indicate that the individual may no longer be qualified for a rating of total disability.

"(e) The Administrator shall inform the individual of the findings made by the Administrator on the basis of verified information under subsection (b) of this section, and shall give the individual an opportunity to contest such findings, in the same manner as applies to other information and findings relating to eligibility for the benefit or service involved.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"§3117. Use of income information from other agencies: notice and verification.".

(c) NOTICE TO BENEFICIARIES.—(1) The Administrator of Veterans' Affairs shall notify individuals who currently are applicants for or recipients of the benefits described in subsection (b) (other than paragraph (3)) of section 3117 of title 38, United States Code (as added by subsection (b)), that income information furnished to the Administrator by such applicants and recipients may be compared with information obtained by the Administrator from the Secretary of Health and Human Services or the Secretary of the Treasury under section 6103(l)(7)(D)(viii) of the Internal Revenue Code of 1986 (as added by subsection (a)).

(2) Notification under paragraph (1) shall be made not later than 90 days after the date of the enactment of this Act. The Administrator may not obtain information from the Secretary of Health and Human Services or the Secretary of the Treasury under section 6103(l)(7)(D)(viii) of the Internal Revenue Code of 1986 (as added by subsection (a)) until such notification is made.

(d) FUNDING FOR ADMINISTRATIVE EXPENSES.—(1) If funds appropriated to the Veterans' Administration for general operating expenses for any fiscal year do not include sufficient amounts provided for the purpose of carrying out section 3117 of title 38, United States Code, as added by subsection (b), during that fiscal year, then the expenses of carrying out that section during that fiscal year shall (to the extent that such general operating expenses appropriations are insufficient for such purpose) be paid from amounts available to the Veterans' Administration for the payment of compensation and pension benefits.

(2) For fiscal year 1989, if a supplemental appropriation law is enacted to provide additional funds to the Veterans' Administration for general operating expenses for that fiscal year which are to be available for the purpose of carrying out such section 3117, such supplemental appropriations for such purpose shall (to the extent available) be used to reimburse appropriations provided for payment of compensation and pension for any expenses previously charged against such appropriations for the administration of such section.

INTRODUCTION

On May 4, 1988, the Subcommittee on Hospitals and Health Care held a hearing to receive testimony on draft legislation regarding the recruitment and retention of Veterans' Administration health care professionals. Testimony was received from the Veterans' Administration; the American Ex-Prisoners of War; the Paralyzed Veterans of America; the Veterans of Foreign Wars; and the Disabled American Veterans.

The Subcommittee held a hearing on June 8, 1988 on the status, findings and interpretations of scientific research related to the exposure of Vietnam veterans to Agent Orange. Witnesses at that hearing were the Veterans' Administration; the Domestic Policy Council of the Agent Orange Working Group; the Centers for Disease Control; the Deputy Surgeon General of the Air Force; the New Jersey Agent Orange Commission; the Office of Technology Assessment; The American Legion, the Disabled American Veterans; the Paralyzed Veterans of America; the Veterans of Foreign Wars; and, the Vietnam Veterans of America.

On August 10, 1988, the Subcommittee met and unanimously recommended to the full Committee H.R. 5114, as amended, which would improve programs for the recruitment and retention of health-care personnel of the Veterans' Administration and extend certain expiring programs.

On September 7, 1988, the Subcommittee held a hearing on the status of the VA's Department of Medicine and Surgery operating funds. Testimony was received from the Honorable Nancy Johnson; the Honorable Jim Olin; the Honorable Ron Wyden; the Administrator of Veterans' Affairs, the Chief Medical Director of the Veterans' Administration, VA field personnel; Donald Custis, M.D. former Chief Medical Director of the Veterans' Administration, Paul Schafer, M.D., Executive Director of the National Association of VA Physicians; Gloria Hope, Ph.D., RN, former Director of Governmental Affairs of the American Nurses Association; the Veterans' of Foreign Wars, the Disabled American Veterans; the Blinded Veterans' Association; the Vietnam Veterans of America; and the Paralyzed Veterans of America.

On September 15, 1988, the full committee met and unanimously recommended that H.R. 5114, as amended, be reported to the House.

SUMMARY OF REPORTED BILL

H.R. 5114, as reported, would:

1) Require that the Administrator provide special pay, in addition to basic salaries, to nurses employed on a full-time basis of $1,500 per year ($1,000 in fiscal year 1989) (or in the case of a nurse employed on a part-time basis, a proportional amount shall be calculated on the basis of the proportion which the part-time employment bears to full-time employment).

2) Require that the Administrator provide incentive special pay, in addition to primary special pay, of not more than $5,500 per

year to any eligible full-time nurse (or in the case of a nurse employed on a part-time basis, a proportional amount shall be calculated on the basis of the proportion which the part-time employment bears to full-time employment) as follows:

(a) For tenure of service of 2 years but less than 5 years, $500;

(b) For tenure of service of 5 or more years, $1,000 ($500 in fiscal year 1989);

(c) For service in intensive care units, critical care units, emergency or operating rooms, or in a nursing specialty which the Chief Medical Director has determined that there are extraordinary difficulties in recruitment or retention, $4,000 ($2,000 in fiscal year 1989);

(d) For service in locations where the Chief Medical Director determines there are extraordinary difficulties in recruitment and retention, $1,500 ($1,000 in fiscal year 1989);

(e) For service in a head nurse position, $1,500 ($1,000 in fiscal year 1989).

The maximum of special and incentive pay for eligible nurses may not exceed $7,000 per year.

3) Authorize the Administrator to provide nurses (who are eligible for special and incentive special pay) special salary rates under section 4107(g)(1) of title 38, United States Code, in order to recruit and retain nurses.

4) Provide, on or after October 1, 1988, that licensed practical or vocational nurses and nursing assistants are eligible for premium pay for Saturday duty on the same basis as registered nurses.

5) Clarify the limitation on outside employment for Veterans' Administration health-care personnel employed under the auspices of title 5, United States Code, and paid under the auspices of title 38, United States Code.

6) Provide that no reductions shall be made from the salaries of Veterans' Administration nurses eligible for military retirement pay.

7) Permit, on or after October 1, 1988, medical center directors to waive parking fees at Veterans' Administration facilities for any health-care employee in receipt of special salary rates under section 4107(g)(1) of title 38, United States Code.

8) Provide, on or after October 1, 1988, that a schedule of parking fees may only be prescribed for a parking facility newly acquired by lease.

9) Convert directors of VA medical facilities who are appointed under section 4103(8) of title 38, United States Code, and who are not physicians to the Senior Executive Service.

10) Provide that additional personnel hired to support services provided to the Department of Defense under a VA/DOD sharing agreement shall not be counted for purposes of any limitation on the number of full-time employees the VA may have for any fiscal year.

11) Permit health-care personnel hired under the auspices of title 5, United States Code, to be hired without regard to the competitive civil service by the Veterans' Administration if they have a recognized degree or certificate from an accredited academic institution and have successfully completed a clinical education program affiliated with the Veterans' Administration.

12) Extend for three years, from September 30, 1988 to September 30, 1991, the Veterans' Administration's authority to contract with halfway houses and other community treatment facilities for treatment of veterans with alcohol or drug abuse disabilities.

13) Extend for three years, from September 30, 1989 to September 30, 1992, the authority for grants to the Veterans' Memorial Medical Center in the Philippines and authorize an appropriation of $1 million per year for such grants.

14) Rescind the VA medical regulation, which became effective on May 23, 1988, limiting the length of an extension of a contract for care of a non-service-connected disabled veteran in a community nursing home.

15) Allow the Administrator, in order to provide for therapeutic work for veterans under the VA's rehabilitative Compensated Work Therapy program, to contract with Federal agencies rather than being limited to contracting only with private and non-profit entities as required in current law.

16) Require the Administrator to establish a 2-year pilot program for fiscal years 1989 and 1990, for an improved, automated management system for billing and collection of fees charged to third parties and for agencies which have sharing agreements with the Veterans' Administration as well as first-party medical copayments and authorize an appropriation of $500,000 for the pilot program.

17) Provide that amounts received under the 2-year automated pilot program shall be allocated as follows:

(a) 25 percent to the Treasury of the United States;
(b) 25 percent to the VA medical center which collected the funds; and
(c) 50 percent to the Chief Medical Director.

Require that the collected fees retained by the Veterans' Administration shall be used for pay and personnel benefits to enhance the recruitment and retention of health-care employees, and to supplement the medical equipment accounts of medical centers which have deficient equipment accounts.

18) Direct the Administrator to compile an accurate and complete list of individuals eligible as of October 1, 1988 for benefits under the Civilian Health and Medical Program of the Veterans' Administration (CHAMPVA) by October 1, 1988. Require that the Veterans' Administration Inspector General submit a report to the Committees on Veterans Affairs of the House and Senate by December 1, 1988 on the Administrator's compliance in compiling the list of eligibles.

19) Authorize dependents of DOD beneficiaries to receive health care in VA medical facilities, on a space available basis, which have VA/DOD sharing agreements.

20) Permit the Administrator to transfer certain medical equipment to State medical schools without reimbursement to the Veterans' Administration.

21) Remove the Veterans Canteen Service from the direction and supervision of the Chief Medical Director and prohibits contracting out of services under provisions of OMB Circular A–76.

22) Permit $3,000,000 in Veterans' Administration funds previously appropriated for the Agent Orange epidemiological study to remain available until September 30, 1989, and to be transferred to the Department of the Air Force for use in conducting blood tests of individuals participating in the Ranch Hand epidemiological study.

23) Change the status of the satellite outpatient clinic in Toledo, Ohio to that of an independent outpatient clinic.

24) Require the VA to transfer to the State of Tennessee approximately seven acres of land, together with improvements, at the Alvin C. York VA Medical Center in Rutherford County, Tennessee for the construction of a State veterans nursing home.

25) Allow the use by the Veterans' Administration of certain United States Internal Revenue Service (IRS) information to verify income for purposes of granting certain VA pension benefits.

Background and Discussion

SPECIAL PAY FOR NURSES

Public Law 96–330, the Veterans' Administration Health-Care Amendments of 1980, established a permanent authority for the Veterans' Administration's program of special pay for physicians and dentists in the VA's Department of Medicine and Surgery. Set out in section 4118 of title 38, U.S.C., that special pay authority was specifically designed to make it possible for the VA to compete for physicians and dentists. Both the House of Representatives and the Senate, in their respective reports on legislation which became Public Law 96–330, stressed the critical shortage of these medical professionals in the VA.

Section 4118 specifies two types of pay: primary special pay and incentive special pay. Primary special pay provides a general improvement in pay based on employment status (at least half-time status) for physicians and dentists whom the VA has significant difficulties recruiting and retaining. Incentive special pay allows a special emphasis on specific recruitment and retention difficulties defined by factors such as: full-time employment status, tenure of service, medical specialty (and subspecialty) and associated board certifications, and service in certain positions within the VA. Thus, a general improvement in the ability of the VA to recruit and retain physicians and dentists was provided as well as the ability to address specific problems in recruitment and retention that are identified. This arrangement has clearly been effective.

Today, the situation with regard to recruiting and retaining registered nurses for employment in the VA has reached as critical a level as that of physicians and dentists in the 1975–1980 period. During the 100th Congress, the committee held several hearings in which the problems of recruiting and retaining medical staff have been addressed. During the second session, at a hearing on the budget for the VA for fiscal year 1989 on February 19, 1988, and at a hearing on medical legislative initiatives on May 4, 1988, testimony was received that reinforced previous hearing testimony and correspondence received by many members of the committee reporting serious recruitment and retention problems around the country. The chief problem was recruitment of nurses, and chief among the possible solutions was increased pay.

In addition, the committee recently published its *Survey of Veterans' Administration Medical Centers* (House Committee Print No. 10, U.S. House of Representatives, 100th Congress, September 1, 1988). Two of the questions asked in the survey of all VA medical centers related directly to the issue of recruitment and retention. Other survey questions were also relevant to recruitment because they concerned the funding of the special salary rates to supplement the basic rates of pay currently authorized for nurses. The medical center directors were asked to estimate the number of full-time equivalent personnel (FTEE) and funds to support them which would be necessary to raise VA medical centers to staffing levels of nearby, comparable non-Federal levels. On the average, the medical centers reported that their RN staffing levels were 62.9 FTEE lower than comparable private sector hospitals. This is a difference of 29 percent. Projected to the entire VA medical care system, approximately 10,064 RN FTEE would be needed to bring the VA up to the community levels. Respondents to the survey used different methods, but clearly the collective judgment of VA medical center directors is that the VA is significantly below the levels at community hospitals.

The respondents to the survey also reported 2,400 vacancies in authorized nurse positions nationwide. This represents about 19 vacancies in each medical center. Unquestionably, the nurse staffing problems have been exacerbated by the nationwide shortage of nurses, which is having a major impact on health care in both the public and private sectors. However, the magnitude of the problem must also be seen in terms of the cost of competitive steps taken by the medical center directors to attempt to fill these vacancies.

A report of site visits to 16 VA medical centers (*Staff Site Visits to Veterans' Administration Medical Centers,* House Committee Print No. 14, U.S. House of Representatives, May 31, 1988) concluded that special salary rates have made it possible for VA medical centers to remain contenders for scarce nurses and other medical personnel in highly competitive employment markets. Yet, 12 out of the 16 hospitals covered in the report show that funding sources are inadequate for the rates. Funds to meet the special pay rates have largely come from replacement equipment and maintenance and repair accounts, leaving these latter needs unmet. The committee's nationwide survey found that approximately $74 million in

personnel costs were not provided in funding allocations from the VA. The resultant workload from such understaffing has further eroded the VA's ability to retain nursing staff.

Section 101 of the reported bill would require special pay for nurses to be provided in a way similar to that for physicians and dentists contained in Public Law 96-330. Specifically, the provision would authorize primary special pay of up to $7,000 per year for nurses. The provision would create primary special pay of $1,000 per year in fiscal year 1989 (and $1,500 per year in fiscal year 1990 and beyond) for full-time employment in the VA, prorated for less than full-time employment. The provision would also create incentive special pay at various amounts tied to factors such as tenure, service in intensive care units, critical care units or other services and in specific geographic locations in which there are extraordinary difficulties in the recruitment or retention of qualified nurses as determined by the Chief Medical Director. Since the VA appropriation for fiscal year 1989 has already been signed into law, the amounts of incentive special pay provided for fiscal year 1989 are less than that provided for future years.

By requiring primary and incentive special pay for nurses, the committee anticipates that the costs of recruiting and retaining nurses will be recognized as a specific part of the VA's budget request rather than being passed along to the medical centers and funded by raiding other accounts. The committee anticipates that some relief will be provided to the VA in its battle to continue staffing its hospitals with high quality nurses. However, the committee will continue to monitor the situation and provide encouragement to enlarging the general pool of registered nurses that exists in the United States and in the Veterans' Administration.

PREMIUM PAY FOR LICENSED PRACTICAL OR VOCATIONAL NURSES AND NURSE ASSISTANTS

During the hearings on the recruitment and retention of registered nurses referred to above, attention was also focused on the serious problems of recruiting and retaining licensed practical and vocational nurses and nurse assistants for VA employment. The services of these occupations are becoming more critical due to the shortage of registered nurses. In the committee's nationwide survey, over 1,200 LPN/LVN vacancies were reported to exist on June 30, 1988. The medical center director respondents also reported that, even if the vacancies were all filled, approximately 1,500 additional LPN/LVNs would be necessary to bring the VA up to comparable community staffing levels. A significant reason for the VA's dificulty in recruitment and retention of LPN/LVN and nurse assistants is reported as pay or pay related.

The VA's *Report of the 1987 Survey of Health Occupational Staff* (VA Office of Personnel and Labor Relations, April 29, 1988) showed that vacancy rates increased during fiscal year 1987 for licensed practical/vocational nurses from 8.6 percent to 10.6 percent and the turnover in fiscal year 1987 was 30.3 percent, up from 18.9 percent in the previous year. In addition, the losses due to higher pay for the same level of responsibility in the private sector ac-

counted for the largest percentage of losses, from 14 percent in fiscal year 1986 to 20 percent in fiscal year 1987. The lack of Saturday premium pay was reported to be a disadvantage to VA employment of licensed practical/vocational nurses by 37.5 percent of VA medical centers.

Similarly, the nursing assistant turnover rate in fiscal year 1987 increased to 20.1 percent from 16.3 percent from the previous year. The lack of Saturday premium pay was listed as a disadvantage to VA employment by 24.7 percent of VA medical centers.

Section 102 of H.R. 5114, as amended, would amend section 4108 (e) to include licensed practical/vocational nurses and nurse assistants for purposes of required Saturday/Sunday premium pay and other related pay. Currently, LPN and LVNs receive such pay on a discretionary basis. Last year, as part of H.R. 2616, the committee attempted this same change which was rejected by the Senate. However, the committee considers the continuing critical nature of nurse staffing in the VA to justify another attempt.

CLARIFICATION OF CERTAIN LIMITATIONS WITH RESPECT TO EMPLOYMENT

The authority for the VA to set rates of pay and qualifications standards for certain title 5, United States Code, employees, i.e. physical therapists, respiratory therapists and licensed practical/vocational nurses, was authorized in Public Law 98–160 and for pharmacists in Public Law 100–322. Thus, title 38, U.S.C., is designated as the pay authority while retaining title 5, U.S.C., for other employment purposes, creating what has come to be termed the "hybrid" occupational categories. The Congress emphasized, in the report language accompanying the legislation which created the "hybrid" occupational groups, that it was their intent not to diminish or impair in any way the rights and protections guaranteed the employees under the express provisions of title 5, U.S.C.. Instead, the intent was simply to provide the pay flexibility that was necessary to ensure that the VA might continue to compete for these hard-to-recruit personnel.

In order to clarify the intent with specific regard to employment outside the VA, often referred to as "moonlighting", section 103(a) of the reported bill would explicitly clarify the authorization for "moonlighting" for hybrid occupations.

In a related provision, section 103(b), the committee has authorized for registered nurses, who are retired from the armed services, the same authority for exception from section 5532 of title 5 enjoyed by physicians and dentists.

Current law, section 4107(i) of title 38, U.S.C., authorizes the VA to make exceptions to the restrictions on the simultaneous receipt of federal retirement pay and a federal salary in situations of a "severe shortage of well-qualified candidates in physician positions which otherwise cannot be readily met." The committee believes that there is a severe shortage of well-qualified registered nurses as well. Section 103(b) of the reported bill would enable retired mili-

tary nurses to accept VA employment without losing their earned retirement benefits.

PARKING FEES AT MEDICAL FACILITIES

Public Law 99–576 authorized the appropriation of funds for a parking revolving fund to finance parking facility construction, alteration, acquisition, and operation and maintenance costs. This law further required that the VA establish and collect reasonable parking fees at parking facilities that are built with funds from the parking revolving fund. In the joint explanatory statement accompanying that legislation, the Senate and House of Representatives Committees on Veterans' Affairs emphasized that the "VA is authorized to adjust the rates to be established in fee schedules prescribed by the VA to take into account the special circumstances of frequent visitors to long-term patients, the desirability of encouraging employee car/van pools, varying employee pay levels, and night and weekend parking."

Not specifically mentioned in the list of special circumstances is the difficulty in recruiting and retaining medical staff. Through information gathered during site visits made in April, 1988, to 16 VA medical centers, the committee learned that the ability of the VA to recruit nurses and other scarce medical personnel, particularly in metropolitan areas where parking is limited, is hampered by the ability of private sector medical facilities to offer free parking as an employment inducement.

In order to aid in the recruitment of staff, section 104(a) of the reported bill would provide that any parking fee may be waived in the case of a health-care employee who is difficult to recruit, specifically an employee who is eligible for an increase in basic pay under section 4107(g)(1).

Also through the information gained by the site visits, the committee learned that the VA establishes parking fees for renewals of leases of parking facilities. The intent of the committees in passing legislation relating to the parking revolving fund and parking fees was to address the costs of increasing the parking capacity of VA medical centers.

Therefore, section 104(b) would clarify that intent by specifying that the fee requirement applies only to the original term of the first lease of a parking facility.

CONVERSION OF NONPHYSICIAN HOSPITAL DIRECTORS TO SENIOR EXECUTIVE SERVICE

Currently, VA medical facility directors who are not physicians are excluded from the Senior Executive Service (SES) established under title 5, U.S.C. This exclusion resulted from concern about the impact of the SES program upon the medical care system and was consistent with the VA's special appointment and pay authority for health care personnel.

Certain anomalies have resulted from this exclusion. First, nonphysician directors are paid the same as physician directors except that the former are deemed to be SES career appointees for the

purpose of receiving performance awards. Second, pay disparities exist between some directors appointed under title 38 and comparable VA executives (such as the Department of Veterans Benefits Regional Office Directors) who are appointed under SES in title 5. Third, Associate Directors (medical facility level) and VA Medical Regional Directors are appointed under title 5 while facility directors are appointed under title 38, creating an incoherence in career paths for non-physicians.

Section 105 of the reported bill would convert to the Senior Executive Service directors of VA medical facilities who are appointed under section 4103(8) of title 38, U.S.C., and who are not physicians. This provision has the support of the VA Chapter of the Senior Executive Association, and 153 of 179 affected VA managers support the deletion of the exclusion.

EXCLUSION FROM PERSONNEL CEILING

The VA and DOD have made significant progress in sharing federal medical resources. (See for example, *VA/DOD Health Care: Further Opportunities to Increase the Sharing of Medical Resources,* United States General Accounting Office, March 1988, GAO/HRD-88-51.) Since the sharing program began with the enactment of Public Law 97-174 early in 1984, about 240 sharing agreements have been effectuated. Benefits resulting from these agreements include reduced federal health care expenditures and improved patient access to specialized services. In particular, the VA and the Air Force have developed two precedent-setting agreements involving the joint use of hospitals that could serve as models for the effective use of existing and future health care facilities.

In certain of these sharing agreements, personnel may be hired by the VA to implement its part of the agreement. These employees are counted against the ceiling on the number of full-time equivalent employees (FTEE) that the VA may have in any fiscal year.

In order not to impede continued progress in implementing the VA/DOD sharing agreements, section 106 of H.R. 5114, as amended, would exclude from any VA personnel ceiling those FTEE is in support of sharing agreements under Public Law 97-174.

APPOINTMENT OF CERTAIN INDIVIDUALS IN HEALTH-CARE POSITIONS

As documented in hearings before the committee and in the two recent reports of site visits and a nationwide survey of medical centers, the VA is experiencing staff shortages in certain "allied health-care" professions whose appointments to VA employment are governed by title 5. As described in a 1982 report to the Congress, highly motivated allied health-care employees who might consider employment with the VA become frustrated by the length and complexity of title 5 civil service procedures and accept employment offers elsewhere.

Under its statutory mission to develop and carry out a program of education and training of health-care personnel for the Nation, the VA trains annually in clinical education programs in VA facili-

ties approximately 50,000 students in these allied professions including pharmacology, occupational therapy, psychology, social work, audiology, speech pathology, dietetics and recreational therapy. Fewer than six percent of these students take jobs with the VA.

Section 107 of the reported bill would allow the VA to appoint highly-qualified graduates in these allied health-care professions who have served under an appointment in a VA health-care facility in a clinical education program which was affiliated with an accredited college or university. This section would allow well-trained individuals who know the VA system and are known by its clinical leadership to be directly appointed without the civil service procedures.

The committee intends that this provision would aid the VA in its recruitment and retention efforts and would enable the VA to gain directly from the clinical education and training programs in which it is engaged across the country. The committee further intends that the individuals who are so directly appointed be graduates who meet VA's high standards for such positions as evidenced by their academic credentials and by the successful completion of an affiliated VA clinical education program.

EXTENSIONS OF EXISTING PROGRAMS

Drug Treatment and Rehabilitation

Public Law 99-166 amended section 620A of title 38 to delete references to the "pilot" origin of the program to provide drug and alcohol treatment services through contracts with non-VA sources. Also, the law extended the authority for the program through September 30, 1988 and required an evaluation report on the operation of the program due not later than February 1, 1988.

According to the February report, based on a six-month followup, 75.4 percent of veterans who had completed the contract residential treatment program were found to be abstaining from any substance abuse compared with 58 percent among veterans who had dropped out of treatment. Also, at the time of followup, 46.8 percent of the treatment group were employed compared to 16.1 percent at the time of admission to treatment. The VA stated in the report that a longer time-frame is necessary to assess readmission rates. The VA found that the average per diem rate paid by the VA for this treatment mode was about $26 compared with about $93 and $103 per day respectively for alcohol and drug abuse treatment in VA inpatient settings.

Based on the results of the evaluation submitted by the Veterans' Administration, the Committee proposes in section 201 of the reported bill to extend for three years, until September 30, 1991, the authority to contract for halfway house services. The committee is eager to learn from the VA whether a longer term followup evaluation sustains the evidence of the effectiveness of halfway house treatment that is suggested in the 1988 report. In particular, knowledge of the relationship between time-in-treatment and subsequent substance-free life would be useful to the committee as

well as the role of outpatient treatment as a followup to halfway house care.

Veterans Memorial Medical Center in the Philippines

Public Law 99-576 extended until September 30, 1989, the authority for the VA to contract with the Veterans' Memorial Medical Center (VMMC) in Manila for the care and treatment of United States veterans in the Republic of the Philippines and the authority to make grants of up to $500,000 annually to the VMMC for the replacement and upgrading of its equipment and the rehabilitation of the physical plant and facilities.

Section 201(b) of H.R. 5114 would extend for an additional three years, until September 30, 1992, the VA's authority to contract with the VMMC. In addition, this provision would extend the authority to make grants to the VMMC, and would increase the amount of the grant from $500,000 to $1 million.

It has been the policy of the United States that there is a moral obligation to provide care to those veterans who served in components of the U.S. armed services. This policy, which has been consistently renewed by the Congress, began in 1948 with the enactment of legislation to construct the VMMC and to provide contract care to the veterans in that facility. The Committee believes that this policy should continue.

The appropriation has been $500,000 per year since 1983. However, the Committee believes that the rising costs of materials in addition to the increased maintenance needs of the 34-year old VMMC justify the proposed increase in the amount of the grant.

COMMUNITY NURSING HOMES

On April 21, 1988, the Veterans' Administration issued final regulations concerning the provisions under which an extension of nursing home care may be granted. (FR 13120, Vol. 53, number 77 April 21, 1988.) Previously, non-service-connected disabled veterans were authorized under section 620(a) of title 38 U.S.C., to receive community nursing home care at VA expense for six months in the aggregate except in three general cases, one of which is "in a case in which, in the judgment of the Administrator, a longer period of nursing home care is warranted." No criteria were specified in statute or in regulation.

The new regulation contains such criteria and, further, sets an arbitrary 45-day limit as to the length of any extension.

Section 202 of the reported bill would rescind the new regulations and replace them with the previous regulation. The committee views a change of the magnitude contained in the new regulations to require hearings, which are planned for next year.

COMPENSATED WORK THERAPY PROGRAM

Compensated Work Therapy (CWT) programs are authorized under section 618(b) of title 38 U.S.C. The programs are funded by a revolving fund known as the Veterans' Administration Special Therapeutic and Rehabilitation Activities Fund. The purpose of these programs is to provide a clinical procedure for evaluating the

patient's vocational or avocational interests, aptitudes, and skills, as well as assessing the patient's physical and mental capacities for work in actual work situations. These programs encourage the development of good work habits, emphasizing attendance, reliability, punctuality, productivity, craftsmanship, and personal responsibilities.

CWT programs involve the use of work subcontracted from and paid for by industries. Wages are generally paid on a piece work basis and are provided and generated through the work contracts. Jobs performed in CWT may range from simple packaging and salvaging type activities to fabrication and assembly operations using complex machines. Activities can take place in the medical center, in the community or on the industrial site. In fiscal year 1987, there were 43 active CWT programs with 5,293 veterans assigned to the various work projects. A recent evaluation study conducted by the VA's Office of Planning and Evaluation found the CWT programs to be successful. Specifically, the findings were: the programs are less resource intensive than other outpatient treatments; the programs are effective in facilitating timely and successful discharge from treatment and into the community; and the programs provide unique and otherwise unavailable service at the local level for mentally ill veterans. In addition, the General Accounting Office (GAO) and the VA's Inspector General have found the programs to be cost effective and to result in a positive therapeutic treatment.

Current law restricts contracting to "private industry or other sources outside the Veterans' Administration". The VA's General Counsel opines that such language also restricts contracting with other governmental agencies as well. The result is that in some areas of the country, particularly in rural areas, the opportunities for establishing CWT programs are foreclosed. A further restriction on the program is that the General Counsel has advised that the language in section 618(c)(1) restricts the expenditures from the fund for the expenses of travel for purposes of training program employees at the local sites.

Section 203 of the reported bill would allow the CWT programs to contract with an array of private and governmental entities including the VA. Section 203 would also allow revolving fund monies to be used for training and related management functions including travel expenses. The committee believes that this is an effective program for a unique group of veterans and that restrictions on the opportunities to establish and effectively manage the program should be minimal.

PILOT PROGRAM FOR THE COLLECTION OF FEES

Public Law 99-272 restated the right of the United States to recover the cost of certain care and services from third parties without substantive modification except for the addition of a new category of care for which recovery may be sought. The new category was for medical care provided to a veteran with no service-connected disability who is entitled to care, or reimbursement for care, from a third party such as an employee health care insurer. This

authority was in addition to the VA's previous authority to collect under worker's compensation laws, automobile "no-fault" insurance policies, and "victims of crime" compensation funds. Under Public Law 99-272, the monies recovered go to the Treasury of the United States and not to the Veterans' Administration.

The VA has unique constraints in responding to this change. For example, there is little incentive for medical centers to attempt recoveries due to the costs associated with recovery. Another example is that billing and collections are new functions for the VA and, historically, coordinating agencies (such as Treasury, District Counsels, Department of Justice and Federal Marshals) have placed low priority on collections. Further, the VA does not have reimbursement contracts with most major private insurance companies.

A program was instituted in the VA's Medical Region 2 to increase revenue and collections from the provision of medical care at the Richmond VA Medical Center. The program identified legally permissible opportunities for such collections, taking into account VA's unique constraints and capabilities. The preliminary findings from the program indicate that this one medical center could: increase revenue by $419,000 if tort feasor cases were properly identified and pursued; increase inpatient billing revenue by $4.4 million at current billing rates if all non-service-connected patients with reimbursable insurance policies were fully identified; increase revenues by $1,246,000 from outpatient care if all non-service-connected patients with reimbursable insurance were identified; and increase revenues by modifying bill rates to local rates.

The program also identified benefits to be obtained through automating the collections. These included: more accurate billing information; interface with VA's existing Decentralized Hospital Computer Program (DHCP); timely generation of bills; ability to make inquiries on claims status for patient accounts; and speeding cash flow and reducing delays in accounts receivable.

Section 301 of the reported bill would require the VA to carry out a two-year pilot program for the establishment of an improved management system for the administration of the VA's cost recovery authority. The pilot program would be carried out in one medical region of the VA's Department of Medicine and Surgery. As part of the pilot program, the VA would be required to provide for the development of an automated program using the billing and collection expertise and services of the private sector.

Section 301 would also provide incentives for the medical center and VA. Twenty-five percent of recovered amounts would be required to be allocated to funds and accounts of the VA medical center through which the funds were collected; 50 percent would be required to be allocated to accounts available to the Chief Medical Director. The remaining 25 percent would go to the Treasury in the form of miscellaneous receipts. If the recovered amounts are allocated to the VA entities, they would be required to be used for pay and other personnel benefits to enhance the recruitment and retention of health-care employees or to supplement the medical equipment accounts of the medical centers.

The committee believes that the opportunity to learn from the private sector in this matter should be taken. The incentives provided in this provision should not only serve to enhance the revenues generated by the recovery authority in law but should also serve to alleviate some of the fiscal problems reported in the committee's recent survey.

CIVILIAN HEALTH AND MEDICAL PROGRAM OF THE VETERANS' ADMINISTRATION

Initially authorized in 1973, the Civilian Health and Medical Program of the Veterans' Administration (CHAMPVA) customarily operates as a health care insurance program and provides payment for 75% of the cost of inpatient and outpatient health care furnished to eligible dependents of certain veterans. These individuals include dependents of veterans who are permanently and totally service-connected disabled, dependents of deceased veterans who were rated permanently and totally service-connected disabled at the time of their death from non-service-connected causes, and the survivors of veterans who have died as a result of a service-connected condition. CHAMPVA beneficiaries generally obtain health care from private health care providers and pay 25% of the cost of care received.

Claims for CHAMPVA benefits are submitted by either the beneficiary or the service provider to a financial intermediary who processes and pays the claim on behalf of the Veterans' Administration. The VA provides reimbursement to financial intermediaries for payment of claims for care provided to program beneficiaries and makes payment for costs associated with the processing of benefit claims and the administration of the program.

On March 17, 1988, the committee conducted a hearing to examine the current effectiveness and efficiency of the administration of CHAMPVA by the Veterans' Administration Department of Medicine and Surgery. According to testimony and information presented to the Subcommittee, the administration of CHAMPVA has been marked by serious continuing deficiencies.

According to audits conducted by the VA Office of Inspector General, an estimated 15% of all CHAMPVA program beneficiaries in 1986, an estimated 28.3 percent of the individuals who received CHAMPVA benefits (56,601 of 200,083) were considered to be ineligible. During the four fiscal year period from 1983 to 1986, an estimated $40.7 million was spent for CHAMPVA health and medical care benefit claims on behalf of persons not eligible for CHAMPVA and an additional $2.2 million in associated CHAMPVA administrative costs was paid. According to the Inspector General, VA spending of $29.7 million for CHAMPVA benefits during fiscal years 1987 and 1988 for individuals not eligible for program benefits is projected.

The committee believes action must be taken promptly by the agency to correct serious deficiencies which have been identified in the administration of CHAMPVA. The provisions reported by the committee in section 302 would require action be taken to correct serious program administrative deficiencies and to improve the

cost-effectiveness and efficiency of the administration of this benefit program.

Specifically, section 302 of the reported bill would require the Administrator of Veterans' Affairs (1) to compile an accurate and complete list of individuals eligible as of October 1, 1988, to receive benefits under Section 613 of title 38, United States Code; (2) to compile this list not later than October 1, 1988; and (3) to maintain and periodically revise this list of eligible program beneficiaries. In addition, section 302 would require the Administrator to establish not later than October 1, 1988, a procedure for the review of the need, cost effectiveness, and appropriateness of the health care provided by the Veterans' Administration under Section 613 of such title.

Section 302 would direct the VA Inspector General to submit to the Committees on Veterans' Affairs of the Senate and the House of Representatives a report on the Administrator's compliance with the section. If the VA's Office of Inspector General finds the Administrator has not complied with requirements of these subsections, the Administrator would be required to submit a report explaining the reasons for noncompliance and a plan to correct the deficiency.

Section 302 would also require the Administrator to conduct a study of alternative methods for providing for the cost of health care currently authorized under section 613 of such title, and that the Administrator submit a report of the results of the study to Congress not later than one year after the date of enactment. It further authorizes the appropriation of $500,000 to carry out the study directed by this subsection.

VETERANS' CANTEEN SERVICE

Following an investigation of the services provided to veterans by private concessionaires, the Veterans' Canteen Service was established in 1946 by Public Law 636, 79th Congress at the request of the then VA Administrator, General Omar N. Bradley. Conducted in response to many complaints, this investigation found services provided to veterans by private concessionaires were inadequate and unsatisfactory and veterans were being exploited financially because of excessive prices charged by private concessionaires for many canteen items.

Established as an independent entity within the Veterans' Administration, the Veterans' Canteen Service makes available to hospitalized and domiciled veterans, at reasonable prices, articles of merchandise and services which are essential to the comfort and well-being of these veterans. Financially self-sustaining, Congress appropriates no funds for the Veterans' Canteen Service. As a non-appropriated fund activity which is financially independent, the Veterans' Canteen Service generates funds needed for current operating expenses and capital investment from canteen activities and operations. Further, under the provisions of P.L. 100-322, employees of the Veterans' Canteen Service are not to be considered employees of the Veterans' Administration for the purpose of any

personnel ceiling which may be applied to the Veterans' Administration by the President.

The committee conducted three oversight hearings on the Veterans' Canteen Service, most recently on June 23, 1988. During this hearing, witnesses reported the Veterans' Administration had ordered a fully operational resumption, effective June 7, 1988, of the process for soliciting bids for contracting out canteen food service activities under the provisions of Office of Management and Budget Circular A–76. According to information presented to the Subcommittee, bids for contracting out food service activities in 74 canteens are to be solicited. Eight of those canteens were included in the first bid solicitation issued on August 15, 1988.

For the past several years, the Committee on Veterans' Affairs has opposed the contracting out of certain services to private contractors under Office of Management and Budget Circular A–76. In the view of the Committee on Veterans' Affairs, proposals to contract out canteen activities or operations are based on the false assumptions that government appropriations could be reduced on the one hand and services would be improved on the other. As already noted, Congress appropriates no funds for the Veterans' Canteen Service, VCS operations pay their own way and the inclusion of VCS activities in the A–76 process will not reduce federal appropriations. The Veterans' Canteen Service employs its own personnel, pays their salaries, retirement and other employment benefits and purchases goods through a revolving fund established by law. To return to the use of contractors for Veterans' Canteen Service food operations or other activities would turn back the clock some forty years and do a disservice to veteran patients, their families and visitors as well as VA employees utilizing these services.

Therefore, section 305(a) of the reported bill would amend Section 4203, title 38, USC, to prohibit securing by contract or agreement the performance of a Veterans' Canteen Service activity by an individual not directly employed by the United States, when such activity is being performed by an employee of the United States who is compensated with nonappropriated funds.

As noted previously, the Veterans' Canteen Service is an independent entity within the Veterans' Administration. As provided in section 4208, title 38, United States Code, the Veterans' Canteen Service, "under control and supervision of the Administrator, shall function as an independent unit in the Veterans' Administration and shall have exclusive control over all its activities including sales, procurement and supply, finance, including disbursements, and personnel management . . . ".

Witnesses who appeared at the June 23, 1988, hearing testified that Veterans' Canteen Service Central Office employees are now reporting to Department of Medicine and Surgery officials, including the Director of Administration, on Veterans' Canteen Service activities and policies including merchandising and the purchasing and pricing of articles and items offered for sale. In response to a separate inquiry, the Veterans' Administration also acknowledged that Veterans' Canteen Service employees regularly report to DM&S officials on VCS activities and operations.

The requirement of daily, multiple reports to Department of Medicine and Surgery officials by Veterans' Canteen Service employees on canteen operations and activities are inconsistent with the exclusive control and operational independence provided to the Veterans' Canteen Service by Congress.

Therefore, section 305(b) of the reported bill would amend section 4208 of title 38, U.S.C., to prohibit the head of the Veterans' Canteen Service from being required to report to or be supervised by any official of the VA other than the Administrator or the Deputy Administrator. The provision adopted by the Committee reaffirms and strengthens the independence of the Veterans' Canteen Service intended by Congress.

ELIGIBILITY OF MILITARY DEPENDENTS FOR HEALTH CARE UNDER SHARING AGREEMENTS

A brief overview of Public Law 97-174, the Veterans' Administration and Department of Defense Health Resources Sharing and Emergency Operations Act, can be found above under the section entitled, "Exclusion from Personnel Ceiling". An aspect of the sharing program related to eligibility is addressed in the General Accounting Office (GAO) Report, "VA/DOD Health Care: Further Opportunities to Increase the Sharing of Medical Resources" (GAO/HRD-88-51, March 1988). In general, the VA is required to provide hospital care and outpatient care for certain categories of veterans. In addition, the VA may provide hospital and outpatient care on a space-available basis to other eligible veterans. The VA also acts as a backup to the DOD in case of national emergency.

The DOD health care system has two primary objectives. The first is to maintain the health of the active duty force and the second is to provide medical care to eligible dependents and retirees when space, facilities, and staff are available. Active duty members of the uniformed services have first priority for care in military medical facilities. Care provided in military treatment facilities to other uniformed services' beneficiaries—dependents—is provided on a space-available basis.

Under Public Law 97-174, an individual who is a primary beneficiary of the agency may be provided health care at a facility of the other agency that is a party to the sharing agreement. However, under current law, DOD dependents are not permitted to receive medical treatment in VA facilities. Under the VA's 1986 interpretation of that law, the General Counsel noted that the sharing law grants broad authority for VA to provide services to DOD; the only limitation is on providing health care to DOD dependents or other nonprimary beneficiaries who are in a VA facility. The legal opinion stated that a distinction could be made between providing care directly to a DOD dependent and providing ancillary services to a military facility in connection with its care of DOD dependents.

Bills were introduced in the House and Senate in 1986 and another bill in 1987 was introduced in the House to remove the restriction on VA treating DOD dependents under VA/DOD sharing agreements. No action was taken on these bills. In its most recent report, GAO recommended to Congress legislation which would

extend VA/DOD sharing authority to any individual eligible to receive health care at either VA or DOD facilities on a space available, referral basis. This legislation would improve the efficiency and reduce the costs of VA and DOD hospitals by expanding the authority to share health care resources. DOD and VA concurred in that recommendation.

Section 303 of the reported bill would authorize dependents of members of the active duty armed forces to receive health care in VA facilities in instances where sharing agreements are in force. The committee intends that care provided to such dependents be on a space available, referral basis, as section 5011(c) of title 38 U.S.C., currently permits the provision of direct health care to any DOD beneficiary only if the care does not adversely affect the range of service, quality of care, or the established priorites for care provided to eligible veterans. Thus, admission of dependents under this section would not displace veterans. The committee remains committed to the VA/DOD sharing program as it has proved its efficiency and effectiveness for both agencies.

A recent example of the potential of VA/DOD sharing was seen during a visit by Chairman Montgomery with Congressman Owen Pickett to Norfolk, Virginia, where a new VA outpatient clinic will be located at the Naval Medical Command, Mid-Atlantic Region Compound. In the agreement, the Navy will provide 1,500 square feet of clinic space and support services and in return the VA will treat monthly 1,500 referred, active duty Navy personnel in addition to 3,500 veterans. With authority to care for dependents of the active duty Navy personnel on a space available basis, this sharing arrangement might be even more beneficial.

TRANSFER OF TITLE TO CERTAIN MEDICAL EQUIPMENT

Under a now-expired grant program established to assist certain colleges or universities, the VA provided resources including a wide variety of equipment to five new medical schools between 1974 and 1980. Due to age and obsolence, this equipment, which is located at the schools although it was jointly used by the VA, should be replaced. However, the VA retains title to it and to dispose of it, the VA would be required to determine whether each item is excess to VA needs. If found to be excess, the item would be transferred to the General Services Administration (GSA) for disposal.

In fact, this equipment has limited value. Some of the grantee schools have offered to replace the equipment if allowed to use the old equipment for trade-in purposes.

Section 304 of the reported bill would transfer title to this equipment to the grantee schools without reimbursement. The committee believes that, in many cases, it may be more beneficial to the VA to permit the medical schools to dispose of the equipment with a view toward using it as a trade-in than it would be to excess it.

AGENT ORANGE RESEARCH

Public Law 96–151 required a study of the relationship between exposure to Agent Orange and the health of Vietnam veterans. Public Law 97–72 expanded the requirement to include other fac-

tors in the Vietnam "experience". The critical problem in investigation of the association between Agent Orange (and its contaminant dioxin) and disease in humans is to distinguish between veterans who have been exposed and those who have not. In fact, the inability of the Centers for Disease Control (CDC) to identify in a scientifically-valid manner exposed and non-exposed veterans was the reason that CDC could not complete the Agent Orange Study. Two other studies being conducted by CDC can shed light on the health effects of the Vietnam experience, but neither can directly address the health effects of exposure to Agent Orange.

However, a newly developed and tested blood assay technique can accurately show exposure to Agent Orange through measuring the level of residual dioxin in blood.

The Air Force health study of veterans who participated in Operation Ranch Hand (Agent Orange spraying missions in Vietnam) is widely recognized as extremely comprehensive and based on sound epidemiological principles. Based on blood assays done on a small sample of the Ranch Handers, as well as information about the nature and extent of their contact with Agent Orange in Vietnam, it is clear that this study population as a group received substantial Agent Orange exposure. Because the study was begun before the blood dioxin test was available, the exposure index used was based primarily on military records. As the CDC's blood validation study conducted in connection with its Agent Orange study demonstrated, military records cannot be taken as a reliable indicator of Agent Orange exposure, even when combined with personal reports of such exposure. Accordingly, use of the new blood assay techique to test the Ranch Handers could improve the reliability of the exposure index used in that study and the accuracy of interpretation of the health data already gathered on these veterans. Combining the new blood test and health information offers a unique opportunity to examine the health effects of human exposure to dioxin (Agent Orange) in a cost-effective way.

The Congress has authorized and appropriated about $19 million for the CDC Agent Orange study that will revert to the Treasury if some action is not taken by the Congress this Session. The funds were appropriated in the Supplemental Appropriations Act of 1984 (Public law 98–181). Of that amount, $3 million should be sufficient to pay for testing the Ranch Handers.

Section 306 of the reported bill would authorize a transfer in the amount of $3 million for the expenses of the Department of the Air Force in connection with blood test of individuals who, while service in the Air Force, participated in the spraying of Agent Orange in Vietnam during the Vietnam era. The committee believes that this unique and cost-effective opportunity to study directly the relationship between the health of Vietnam veterans and exposure in Vietnam to Agent Orange and its contaminant, dioxin, should not be lost. This opportunity exactly matches the intent of Public Law 96–151.

SATELLITE OUTPATIENT CLINIC, TOLEDO, OHIO

In the 99th Congress, the Committee passed legislation that was rejected by the Senate to change the status of the Outpatient clinic at Toledo, Ohio, to that of an independent clinic. There have continued to be problems in staffing and allocating resources to the clinic. Therefore, section 307 of the reported bill would again attempt to change the status of the clinic to that of an outpatient clinic.

LAND TRANSFER, RUTHERFORD, TENNESSEE

Section 308 of the reported bill would require the VA to transfer to the State of Tennessee a tract of land consisting of approximately 7 acres, together with improvements, at the Alvin C. York VA Medical Center in Rutherford County, Tennessee for construction of a State veterans nursing home.

USE OF INFORMATION TO VERIFY INCOME FOR PURPOSES OF NEEDS-BASED BENEFITS AND SERVICES

There are several veterans benefits which are "needs-based", such as non-service-connected disability pension payable to wartime veterans with low incomes and who have permanent and total disabilities not related to their military service. For purposes of this program, a veteran who has attained age 65 is presumed to be totally and permanently disabled. In addition, the eligibility criteria for VA hospital, nursing home, domiciliary or outpatient care requires the VA to obtain income information.

In all of these programs, eligibility determinations are made by the VA on the basis of income data which have been self-reported by the beneficiary. Few attempts have been made to verify these self-reported data by matching against other Federally-collected information. One matching attempt used Social Security payment data and the VA Inspector General has conducted one-time matches of beneficiary-reported data against other data bases. These few attempts have revealed material discrepancies between data reported by some beneficiaries and data from other sources.

In order to assess the extent of the discrepancies, Senator Murkowski requested that the General Accounting Office (GAO) conduct a review of the accuracy of self-reported beneficiary income using certain income tax data bases maintained by the Internal Revenue Service. GAO's findings indicated that, considering only discrepancies greater than $100, the potential 1984 overpayments totalled $182.5 million paid to nearly 149,000 VA pension beneficiaries. The GAO further found that only $25.3 million of these overpayments could have been identified by the VA using existing resources and procedures. Access to the same third-party and self-employment IRS and SSA data available to other Federal agencies for purposes of eligibility determinations would have permitted identification of over $157.2 million in erroneous payments, according to the GAO. GAO recommended that the Congress allow the VA access to such information to permit verification of self-reported beneficiary income.

Section 309 of the reported bill would amend paragraph (7) of section 6103(l) of the Internal Revenue Code of 1986 (26 U.S.C. 6103(1)) to require generally the disclosure of such information to the VA for purposes of income verification in connection with its needs-based pension programs under chapter 15 of title 38 or other laws administered by the VA; parent's DIC under section 415 of title 38; compensation based on individual unemployment ratings under section 416 of title 38, Code of Federal Regulations; and health-care services furnished on the basis of income, incapacitation, or resources under sections 610(a)(1)(I) and (2)(A) (hospital care, 610(b) (domiciliary care), and 612(a)(2)(B) (outpatient care) of title 38.

Section 309 would also amend chapter 53 of title 38, relating to special provisions in connection with VA benefit programs, to add a new section 3117, which would prohibit the Administrator from using such IRS and SSA information without first complying with the requirements of section 1137(c) of the Social Security Act (42 U.S.C. 1320b-7) for independent verification of such data, notification to the individual concerned, and allowing the individual fair opportunity to contest agency findings based on such information.

Section 309 would also require that the VA notify benefit recipients and applicants that the income data they provide to the VA for the purpose of establishing initial or continuing eligibility for benefits would be subject to verification by means of matching against information in reports submitted by employers, financial institutions, and other third parties to the IRS and SSA. The reported bill would require that the VA provide this notice within 90 days of the date of enactment and prior to initiating verification and matching of data. Subsequently, the VA would be required to provide notice of the income-verification program to all new applicants for the benefits involved or for health-care services based on income status and periodically to renotify all recipients.

Section 309 of the reported bill would also provide that the costs of implementing and operating this matching program would be specifically appropriated for those purposes in the general operating expenses account, or, in the event no such appropriation is made, would be funded from the Compensation and Pension account to be reimbursed from receipts from the program.

The committee plans to monitor the VA's implementation of this authority and expects the VA to carefully document any changes resulting from this new authority. The committee will ask both the VA's Inspector General and GAO to review these effects of these changes in the VA and the IRS.

Oversight Findings

No oversight findings have been submitted to the committee by the Committee on Government Operations.

88-433 O - 88 -- 3

CBO Cost Estimate

The committee received the following letter from the Congressional Budget Office on the reported bill.

CONGRESSIONAL BUDGET OFFICE
U.S. CONGRESS
WASHINGTON, D.C. 20515

September 16, 1988

Honorable G. V. Montgomery
Chairman
Committee on Veterans' Affairs
U.S. House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

The Congressional Budget Office has reviewed H.R. 5114, the Veterans' Health-Care Programs Amendments of 1988, as ordered reported by the House Committee on Veterans' Affairs, September 15, 1988.

If you wish further details on this estimate, we will be pleased to provide them.

Sincerely,

for James L. Blum
Acting Director

cc: Honorable Gerald B. H. Solomon
Ranking Minority Member

Pg

CONGRESSIONAL BUDGET OFFICE
COST ESTIMATE

September 16, 1988

1. BILL NUMBER: H.R. 5114

2. BILL TITLE:

Veterans' Health-Care Programs Amendments of 1988.

3. BILL STATUS:

As ordered reported from the House Committee on Veterans' Affairs, September 15, 1988.

4. BILL PURPOSE:

To improve programs for the recruitment and retention of health-care personnel of the Veterans Administration (VA), to extend certain expiring programs of the VA, and for other purposes.

5. ESTIMATED COST TO THE FEDERAL GOVERNMENT:

	(By fiscal years, in millions of dollars)				
	1989	1990	1991	1992	1993
Authorization					
Authorization Level	50.2	91.8	92.9	87.5	87.4
Estimated Outlays	48.1	89.7	92.6	87.4	88.4
Direct Spending					
Budget Authority	-17.0	-69.0	-133.0	-181.0	-188.0
Estimated Outlays	-19.0	-70.0	-133.0	-181.0	-189.0

The cost of this bill would fall in budget function 700.

Basis of Estimate

The following section-by-section cost analysis only addresses those sections of the bill that could be expected to have a significant impact on the federal budget.

Section 101. This section would authorize special pay for VA registered nurses. Primary special pay of $1,500 would be paid to all full-time registered nurses; further additions to basic pay would be authorized for length of service, certain nursing specialties, and head nurses. Part-time nurses would receive amounts of special pay in proportion to their work hours. In those facilities where increased basic pay rates are in effect, special pay would only be paid to the extent that it exceeds the increased basic pay amount. These new pay

amounts would be phased in, however, with lower rates in effect during fiscal year 1989.

	(By fiscal years, in millions of dollars)				
	1989	1990	1991	1992	1993
Estimated Authorization Level	25.8	66.9	66.9	66.9	66.9
Estimated Outlays	24.8	65.3	66.9	66.9	66.9

This estimate is based on data from the VA regarding the number of registered nurses employed on a full-time or part-time basis, the number in various nursing specialties, and the distribution according to length of service. As of May 31, 1988, the VA was employing 31,685 full-time registered nurses who would be eligible for primary special pay of $1,500. Of those, 22,693 nurses had more than 5 years of service, which would qualify them for incentive special pay of $1,000. Nurses in certain specialties listed in the bill and in certain geographical areas in which the VA is experiencing a nursing shortage would be eligible for incentive pay of up to $4,000. The VA lists 5,039 critical and intensive care and surgical nurses who would be eligible for $4,000 increases. Data is not available on the number of emergency room nurses or on those in shortage areas who would also be eligible. Finally, 2,409 head nurses would be eligible for incentive pay of up to $1,500. An average bonus of $750 was assumed for head nurses, because the full amount would put many of them over the incentive special pay cap of $5,500.

In certain geographical areas where the recruitment and retention of nurses is difficult, the VA currently pays higher than normal basic pay rates to some or all categories of nurses. Section 101 specifies that, in those facilities where increased basic pay rates are in effect, the special pay amounts provided by the bill can only be paid to the extent that they exceed the increase in basic pay. The amount of increase in basic pay varies widely both between facilities and within individual facilities. No average increase in basic pay was available from the VA. Therefore, the total estimated cost of the special pay rates, $100 million, was reduced by the total cost of increased basic pay for registered nurses, $33 million. If a significant number of nurses receive an increase in basic pay that is higher than the special pay for which they would be eligible, this estimate of the cost of special pay provided by section 101 could be understated.

Section 102. Under current law, registered nurses are paid 125 percent of basic pay for workhours on Saturday or Sunday. This section would extend Saturday and Sunday premium pay to licensed practical nurses (LPNs), licensed vocational nurses

(LVNs), and nursing assistants (NAs). Some LPNs and LVNs already receive premium pay under the VA's authority to grant it where necessary for the recruitment and retention of staff.

	(By fiscal years, in millions of dollars)				
	1989	1990	1991	1992	1993
Estimated Authorization Level	17.2	18.0	18.8	19.6	20.5
Estimated Outlays	16.8	18.0	18.8	19.6	20.5

According to VA data, the agency employed 10,902 LPNs and LVNs, and 15,550 NAs as of March 31, 1988. Of this number, approximately 20 percent are expected to be receiving premium pay under the special authority by October 1, 1988, the effective date of this provision. The average increase in pay for Saturday and Sunday work is estimated at $2.15 an hour for LPNs and LVNs and $2.00 an hour for NAs. These amounts were increased in the outyears for assumed federal payraises.

Section 201(a). This section would extend for three years the authority of the VA to contract with community halfway houses for treatment of veterans with alcohol and drug dependency disorders.

	(By fiscal years, in millions of dollars)				
	1989	1990	1991	1992	1993
Estimated Authorization Level	5.7	5.9	6.2	0.0	0.0
Estimated Outlays	5.7	5.9	6.2	0.0	0.0

The cost of this program is expected to be approximately $5.4 million in fiscal year 1988. The estimated authorization levels for 1989-1991 were increased for anticipated inflation. It was assumed that the full estimated authorization level would be appropriated each year. Outlays were estimated according to historical spending patterns for this activity.

Section 201(b). This section would authorize the appropriation of $1 million for the Veterans Memorial Medical Center in the Republic of the Philippines for fiscal years 1989-1992. An appropriation of $500,000 is currently authorized for 1989.

	(By fiscal years, in millions of dollars)				
	1989	1990	1991	1992	1993
Authorization Level	0.5	1.0	1.0	1.0	0.0
Estimated Outlays	0.0	0.3	0.7	0.9	1.0

It was assumed that the full authorization levels specified by section 201(b) would be appropriated. Outlays were estimated according to historical spending levels.

Section 301. This section would authorize the appropriation of $500,000 to finance a pilot program in one VA medical region to improve the billing and collection of health insurance reimbursements and veterans' copayments for VA medical care. The section would also provide that 75 percent of the funds collected through the pilot program would be retained by the VA. Under current law, these funds are miscellaneous receipts of the Treasury.

	(By fiscal years, in millions of dollars)				
	1989	1990	1991	1992	1993
Authorization					
Estimated Authorization Level	0.5	0.0	0.0	0.0	0.0
Estimated Outlays	0.3	0.2	0.0	0.0	0.0
Direct Spending					
Budget Authority	16.0	19.0	21.0	24.0	27.0
Estimated Outlays	14.0	18.0	21.0	24.0	26.0

This estimate assumes that the amount authorized for the pilot billing and collection system would be fully appropriated and would outlay according to historical spending patterns for activities of this type. The estimate also assumes that all collections from the medical region selected for the pilot program would be allocated according to the formula set out in section 301 and would be available for obligation by the VA without further appropriation action. Because it is not known which of the seven VA medical regions would be selected for the pilot program, the amount of medical care reimbursements affected by the allocation provision was estimated to be one-seventh of total projected reimbursements. Outlays of these funds were estimated according to the historical spend-out rate for the Medical Care account.

Section 302. This section would authorize the appropriation of $500,000 to finance a study of alternatives to CHAMPVA (Civilian Health and Medical Program of the VA) for providing medical care to the survivors of veterans whose deaths were service-related and to the dependents of veterans totally disabled from service-connected causes.

	(By fiscal years, in millions of dollars)				
	1989	1990	1991	1992	1993
Estimated Authorization Level	0.5	0.0	0.0	0.0	0.0
Estimated Outlays	0.5	0.0	0.0	0.0	0.0

This estimate assumes that the authorized amount would be fully appropriated and that outlays would occur according to historical spending patterns for activities of this type.

Section 306. This section would reappropriate $3 million to the Medical and Prosthetic Research account that would otherwise lapse in fiscal year 1989.

	(By fiscal years, in millions of dollars)				
	1989	1990	1991	1992	1993
Budget Authority	3.0	0.0	0.0	0.0	0.0
Estimated Outlays	3.0	0.0	0.0	0.0	0.0

An estimated $16 million of the funds appropriated for the Agent Orange Epidemiological Study are scheduled to be returned to VA during fiscal year 1989, at which point the authority to obligate the funds would lapse. By granting the VA the authority to obligate $3 million of those funds, this section would serve as a reappropriation. The funds would be used to pay expenses of the Department of the Air Force arising from blood tests of Air Force personnel who were heavily exposed to Agent Orange during Vietnam service. The estimate assumes that the funds would be transferred in a lump sum during 1989.

Section 308. This section would amend the Internal Revenue Code of 1986 to authorize access by the VA to income information reported to the Internal Revenue Service (IRS) by employers, financial institutions, pension plans, and other third-parties. The VA would be permitted to use this data to verify the income reported by recipients of VA means-tested benefits, primarily VA pensions. The bill would also amend title 38, U.S.C., to require the VA to independently verify conflicting data and to provide an opportunity for beneficiaries to contest the findings before benefits are reduced or discontinued. Finally, the VA would be required to notify all affected beneficiaries that reported income will be checked against IRS data.

	(By fiscal years, in millions of dollars)				
	1989	1990	1991	1992	1993
Benefit Savings					
Budget Authority	-36.0	-98.0	-175.0	-236.0	-246.0
Estimated Outlays	-36.0	-98.0	-175.0	-236.0	-246.0
Administrative Costs					
Budget Authority	*	10.0	21.0	31.0	31.0
Estimated Outlays	*	10.0	21.0	31.0	31.0
Net Budget Impact					
Budget Authority	-36.0	-88.0	-154.0	-205.0	-215.0
Estimated Outlays	-36.0	-88.0	-154.0	-205.0	-215.0

* Less than $500,000.

The estimates of the effects of this provision are based on data from two General Accounting Office reports, VETERANS' PENSIONS: Verifying Income with Tax Data Can Identify Significant Payment Problems (GAO/HRD-88-24, March, 1988) and VETERANS' BENEFITS : Improving the Integrity of VA's Unemployability Compensation Program (GAO/HRD-87-62, September, 1987).

The GAO estimated that approximately $157 million was overpaid in pension benefits in 1984 that could have been identified through a match of income reports from pensioners and reports to the IRS from employers, financial institutions, and other organizations. An additional $10 million in potential overpayments may have been made to veterans receiving full disability compensation for individual unemployability who had substantial unreported earnings. While savings of this magnitude should be attainable eventually, the problem of coordinating the IRS data with VA program data would delay the achievement of this level of savings until 1991 at the earliest.

The estimate above assumes that the first computer match would be run on income reported for calendar year 1988. This data, as reported for benefit purposes, should be available in early 1989. According to the Social Security Administration (SSA), IRS data for 1988 income should be available in October-November of 1989. Thus, the VA should be able to begin investigating and adjudicating dissimilar income reports early in calendar year 1990.

Some savings would be expected to occur in 1989 and 1990, however, as a result of more accurate reporting of income by pensioners, once they learn that income reported to the VA will be checked against IRS data. The estimate above assumes that a portion of the anticipated reduction in pension payments would result from the voluntary discontinuance of fraudulent reporting on income questionnaires. Because these savings would occur independently of the computer match, it was assumed that they would begin with the notification to pensioners of the IRS match early in fiscal year 1989. The administrative costs shown in 1989 represent the costs of this notification.

The GAO estimated that the administrative cost of identifying pension overpayments would be approximately $14 million. This assumed an average administrative cost of $20.32 per case, which would cover 1.12 hours of adjudicator time. CBO expects that the average administrative cost would be about 250 percent higher than estimated by GAO for several reasons. First, the VA would be required by the bill to independently verify any reporting inconsistencies and to provide

beneficiaries with the opportunity to refute their findings. This would involve considerably more adjudicator time than is assumed in the GAO estimate. Also, the GAO estimate failed to include costs for the investigation of fraud or for the collection of prior overpayments, which would further increase administrative costs. The CBO estimate of administrative costs ranges from $10 million in 1990 to $31 million in 1993.

Despite the higher estimate of average administrative cost, CBO's estimate of total administrative costs is only slightly higher than GAO's. This results from the CBO assumption that a significant portion of the reduction in overpayments would ensue from voluntary corrections in income reports, which would require no adjudication action.

6. ESTIMATED COST TO STATE AND LOCAL GOVERNMENTS:

The Congressional Budget Office has determined that the budgets of state and local governments would not be significantly affected by enactment of this bill.

7. ESTIMATE COMPARISON: None.

8. PREVIOUS CBO ESTIMATE:

On August 9, 1989, CBO transmitted an estimate of H.R.5114, as introduced, to the House Committee on Veterans' Affairs. A number of the provisions of the current version of H.R. 5114 were added to the introduced version of the bill by the Subcommittee on Hospitals and Health Care and by the full Committee in mark-up. Of the original provisions of the bill, in only one -- currently section 301 -- has the cost estimate changed from that shown in the August 9 estimate. In the earlier estimate, CBO interpreted the language of the provision that allocates a portion of the medical care offsetting receipts back to the agency as being insufficient to provide the VA with direct spending authority for those funds. This language was amended in full committee to clearly provide the VA with this authority. The cost estimate for this provision has, therefore, been amended to include direct spending of these funds.

On August 1, 1989, CBO issued a cost estimate of S. 2011, as ordered reported by the Senate Committee on Veterans' Affairs. Section 703 of S. 2011 and section 308 of H.R. 5114 are nearly identical in substance and are expected to have the same budgetary impact.

9. ESTIMATE PREPARED BY: K.W. Shepherd (226-2820).

10. ESTIMATE APPROVED BY:

James L. Blum
Assistant Director
for Budget Analysis

INFLATIONARY IMPACT STATEMENT

The reported bill would have no inflationary impact.

AGENCY REPORTS

The Committee received the following letter from the Veterans' Administration concerning the reported bill.

Office of the
Administrator
of Veterans Affairs

Washington DC 20420

Veterans
Administration

AUG 11 1988

Honorable G.V. (Sonny) Montgomery
Chairman, Committee on Veterans' Affairs
House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

This will respond to your request for a report on H.R. 5114, 100th Congress, 2nd Session, the proposed Veterans Health-Care Programs Amendments of 1988.

As more fully discussed below, we generally share the goals of this legislation and favor the enactment of a number of its provisions without qualification. We would suggest a number of improvements and urge that you reconsider a few of the provisions entirely in light of our comments. Our more detailed analysis follows.

Section 2(a) of the bill would extend for three years the authority of the Veterans' Administration to contract for drug and alcohol treatment and rehabilitation services in halfway houses and other community-based facilities. VA agrees with the principal purposes of the provision, but we recommend that the Committee modify the bill in accordance with legislation we have proposed.

The VA contract program for veterans with alcohol and drug dependence disorders was initiated as a pilot project in 1980 pursuant to Public Law 96-22. Subsequent legislation, Public Law 99-166 § 101, extended the program through September 30, 1988. Under this program, the Veterans' Administration is authorized to contract for care, treatment and rehabilitative services in halfway houses, therapeutic communities, psychiatric residential treatment centers and other community-based facilities for eligible veterans suffering from alcohol and drug dependence or abuse disabilities. Through the use of halfway house contracts, veterans suffering from drug and alcohol abuse disorders, who begin treatment in a hospital detoxification ward, are able to continue rehabilitation in a supportive community-based environment. This helps to facilitate the difficult transition back into the community at large.

VA monitoring of the program during fiscal years 1984-87 evidenced the continuing need for drug/alcohol abuse treatment and rehabilitation in the veteran community, particularly among

2.

Honorable G.V. (Sonny) Montgomery

Vietnam era veterans. Over the past several years, studies emphasizing the importance of matching the treatment to the needs of a specific patient population have cited the VA contract program as an example. VA success with the drug/alcohol program demonstrates the effectiveness of the contract approach in achieving treatment and rehabilitation goals, as well as the cost efficiency of operating the program using the contract modality.

VA recommends that in lieu of section 2(a), the Committee adopt a provision authorizing VA to operate this contract program on an ongoing basis. Section 2 of H.R. 4669, which you introduced at our request, would accomplish that purpose. It would also eliminate the requirement for costly special evaluations which were initially helfpul in assessing program viability. Given the program's record of continued success, such evaluations are no longer cost-effective.

We estimate extension of the drug and alcohol treatment contract program, which is included in the President's 1989 budget, will result in costs of $10.4 million in Fiscal Year 1989 and $30.3 million over three fiscal years, the period of extension authorized by section 2(a). These figures were computed on the basis of data collected from FY 1985: identifying a per diem of $27 a day and participation of 7500 veterans per year for an average length of stay of 50 days.

Section 2(b) would extend through September 30, 1992, the authority of the President to enter into contracts with the Veterans Memorial Medical Center (VMMC) in the Philippines to provide payment for hospital care, including nursing home care, to United States veterans in the facility. This provision would also extend through Fiscal Year 1992 the authority to make annual grants to the VMMC for replacing and upgrading equipment and rehabilitating its physical plant and facilities and would increase the amount of these grants from $500,000 a year to $1 million a year.

Before and during the second World War, thousand of Filipinos served in or with the United States Armed Forces in the Philippines. Many of these veterans were casualties of the War. The United States has consistently reaffirmed its moral obligation to provide medical care and treatment to these veterans. The United States undertook this obligation in 1984 when construction of the VMMC began. Congress has continued to renew this authority to help assure the provision of quality care to these U.S. veterans.

We strongly support this provision although we urge that the authority to contract with the VMMC and make grants be extended for five years, at the annual level of $500,000 as contained in our proposed legislation.

3.

Honorable G.V. (Sonny) Montgomery

Section 3 would exclude from VA personnel ceiling controls any additional personnel employed to provide services to DoD under a VA/DoD sharing agreement authorized by 38 U.S.C. § 5011(d). We oppose this section. We cannot support exempting from ceiling controls employees who are supported by appropriated funds. To date, we have found no situation where a real disincentive to VA/DoD sharing exists.

As regards section 4, we believe that authority to provide premium pay to LPN's and nursing assistants is unnecessary. VA now has discretionary authority to pay LPN's (and other title 38 "hybrid" appointees) the same premium pay now authorized for nurses when necessary, as determined by the Administrator, for recruitment or retention. 38 U.S.C. § 4107(f). As to LPN's, the proposal appears redundant.

Mandatory Saturday premium pay for registered nurses is now part of title 38. That should help the VA stay competitive with community hospitals in recruiting and retaining registered nurses. However, extending mandatory Saturday premium pay to LPN's and nursing assistants, as this bill would do, is unnecessary because the VA has no system-wide recruitment and retention problem with nursing assistants. Furthermore, by guaranteeing all forms of premium pay for all nursing personnel including unskilled personnel, this proposal reduces the resources available for skilled nursing personnel for whom recruitment and retention are ongoing challenges. We estimate the cost of this section in FY 1989 to be approximately $9 million, and that 5-year costs will be approximately $46 million.

VA does not object to the proposal in section 5(a) that would clarify that the section 4108(a) moonlighting prohibitions do not apply to title 5 employees paid under title 38. However, inasmuch as only title 38 pay authority applies to these employees, VA believes that this proposal is unnecessary. VA is willing to clarify this through administrative means. There are no costs or savings associated with this provision.

Section 5 (b) would expand VA authority to grant exceptions to reduction in retired military pay for certain employees. Section 5532 of title 5, United States Code, now imposes upon retired officers of the regular components of the uniformed services, but not the reserve components, a substantial reduction in their retired pay when appointed to civilian positions in the Federal government. Naturally, this reduction makes employment with VA for retired military health care officers less attractive. Although a limited number of registered nurses retire from the regular uniformed services, there is a likelihood that many would seek VA employment were it not for the reduction. However, VA now has authority, at

4.

Honorable G.V. (Sonny) Montgomery

section 4107(i) of title 38, to authorize exceptions to the statutory loss of pay for well-qualified physicians. Exercised infrequently and, we believe, prudently, the authority has nevertheless been particularly helpful in selectively recruiting highly qualified physicians in a variety of scarce categories. Section 5(b) would expand the VA's authority so that it would include retired regular component military nurses as well. VA supports the expansion of this authority to include registered nurses as well as other health-care professionals for whom VA must compete. This expansion will be particularly helpful in recruiting and retaining nurses at facilities experiencing nursing shortages.

This provision has an apparent adverse effect on DoD which otherwise would receive the adverse effect of any retired pay reduction. However, VA believes that the benefit to DoD is only theoretical because the section 5332 offset operates as a disincentive to accept Federal employment so that military retirees accept non-Federal employment instead.

Subsection (a) of Section 6 would authorize the VA to waive for health-care personnel in difficult to recruit and retain professions the payment of fees for parking at VA facilities charging these fees. In addition, subsection (b) would provide that VA could charge parking fees at VA-leased parking facilities only during the original term of the first lease.

In 1986, Congress enacted legislation requiring that the VA collect fees from each employee or visitor parking at certain VA medical facilities. In addition, Congress gave the Administrator discretionary authority to charge parking fees at other VA medical facilities. VA recently issued regulations to implement this law.

Although we cannot predict the impact of granting relief from parking fees on the recruitment and retention of personnel in short-supply health care occupations at any medical facility, we believe that taking this action could have a seriously adverse affect on morale among the other employees at the facility. In addition, it could be detrimental to labor-management relations. Accordingly, VA does not favor subsection (a).

Section 6(b) would bar the Administrator from charging parking fees prescribed under section 5009 for any parking facilities obtained by renewal of a lease. We oppose this measure. The VA parking revolving fund finances VA's acquisition of any garage parking facilities leased or constructed by VA. (Other parking facilities may be financed by specific appropriation.)

5.

Honorable G.V. (Sonny) Montgomery

The parking revolving fund includes both funds appropriated for acquiring parking facilities and parking fee collections. Leasing of parking facilities, whether under an initial or renewed lease, necessarily depletes the parking revolving fund. In our view, waiving prescribed parking fees for any leased facilities would only increase the need for appropriated funds to finance parking requirements at VA medical facilities. And the Administrator would be denied the flexibility to determine whether prescribed fees should be charged at a particular facility to meet the needs of the revolving fund. Consequently, we oppose this measure.

Section 7 addresses the VA's authority to extend the provision of contract nursing home care to nonservice-connected disabled veterans. It apparently seeks to rescind a recent VA regulation that clarifies the criteria used to determine if an extension should be granted, and limits the duration of such extensions. We oppose this proposal.

Section 620 of title 38 authorizes the Administrator to transfer to a community nursing home a veteran who was furnished care in a VA medical facility but who still requires nursing home care. This provision is primarily intended to provide temporary assistance to a veteran during a period of transition from hospital care. Congress emphasized the temporary nature of this contract care by providing that the duration of VA-paid community nursing home care for a nonservice-connected disabled veteran is limited to six months unless a longer period is warranted in the judgment of the Administrator. It should be emphasized that this time limitation does not apply to nursing home care for service-connected disabilities. In all other cases, however, it is clearly the intent of Congress that an extension of community nursing home care beyond six months is to be an exception and not the norm.

VA recently amended the regulations which implement the law governing contract nursing home extensions. The prior regulations did not include well defined criteria for granting extensions, and permitted virtually unlimited extensions. Under the new regulations, facility directors are authorized to grant an extension beyond six months when the veteran is terminally ill and life expectancy has been medically determined to be less than six months. Directors can also grant an extension of up to forty-five days when arrangements for payment for nursing home care have been delayed unexpectedly. In the latter situation, authorizing a forty-five day extension helps clarify for all VA facilities the circumstances for an extension and also reduces the possibility of uneven application of this authority.

6.

To restore the old regulations, as section 7 would do, would reinstate a set of poorly defined criteria for granting extensions. The new regulations are much clearer, and the 45-day extension period should afford sufficient time to permit arrangements to be finalized for public or private payment for nursing home care, generally through Medicare or Medicaid. Enactment of this provision would likely result in substantial additional costs, and could amount to some $6 million annually.

Section 8 would permit VA to transfer without compensation certain medical equipment to the colleges or universities currently holding the equipment. These institutions received this equipment under a VA grant program established to assist them in creating new medical schools. We favor this provision.

Under this now-expired grant program, VA provided resources including a wide variety of equipment to five new medical schools between 1974 and 1980. Due to its age and for other reasons, much of this equipment, which remains located at the schools, is no longer usable or needs to be replaced. The Government, however, retains title to this equipment. To dispose of this equipment, therefore, VA must determine whether each item is excess to Agency needs. If so, the item is transferred to the General Services Administration (GSA) for disposal.

This equipment has limited value. In many cases, the grantee shares the equipment's use with VA. Some grantees have offered to replace the equipment if permitted to use it as a trade-in. In many cases, therefore, it may be more beneficial to the government to permit the medical schools to dispose of the equipment than to follow the Government property disposal procedures.

In addition, enactment of this provision would avoid the costs involved in the Government property disposal procedures. For this reason, we support this provision giving VA discretionary authority to transfer this equipment to the school holding it.

Section 9 of H.R. 5114 would amend the Veterans Canteen Service statute (38 U.S.C. §§ 4201 to 4208). Section 9(a) would amend section 4203 to prohibit the Service from contracting with an individual who is not a Federal employee for the performance of any activity otherwise performed by a Federal employee compensated from non-appropriated funds.

We oppose section 9(a). It would deprive the Administrator of the flexibility necessary to operate the Service--either with VCS employees or by utilizing contractors -- according to its needs. At individual canteens, VCS now contracts for an array of services -- ranging from vending machine to cleaning services -- which could be performed by VCS employees. Contracting

7.

Honorable G.V. (Sonny) Montgomery

decisions reflect the VCS' need for the service, its efficiency, its costs, and the availability of personnel to perform it. Generally prohibiting VCS from contracting for services which may be performed by VCS employees would eliminate any efficiencies or economies gained from existing contracts and adversely affect VCS' financial structure which reflects those economies. Applying section 9(a) only to an individual canteen, rather than to the Service as a whole, would freeze that canteen's operation, depriving the Administrator of the flexibility to adjust its operations, as to vending machine services, for example, to meet changes in the medical center or veterans' population which the canteen serves.

Section 9(b) would essentially amend section 4208 of title 38 to prohibit the head of the Service from being required to report to any VA official other than the Administrator or Deputy Administrator of Veterans Affairs.

We oppose section 9(b). First, this provision would require the Administrator or Deputy Administrator to exercise direct line authority over the Service, which has operations at over 170 VA medical facilities. Day-to-day administration over VCS raises operational and policy issues concerning, among other things, pricing, supply and procurement and personnel management. Title 38 does not require the Administrator and his deputy to exercise such authority over any other element of the Agency. Rather, Congress in its wisdom has generally left these officials discretion as to the means through which they exercise their statutory responsibilities.

We urge against a departure from this salutary policy. It is noteworthy that Canteen Service, in its infancy, was organized within the Office of the Administrator of Veterans Affairs. The importance of developing closer links between Canteen Service and the VA medical program it was to serve -- as highlighted in recommendations made by Booz, Allen, Hamilton -- led to a 1955 reorganization. Under that realignment, VCS has successfully carried out its mission over the years, and we are aware of no subsequent management or organizational study calling into question the early judgment that the Chief Medical Director should exercise the powers and functions of the Administrator with respect to the maintenance and operation of the canteen service.

Moreover, the enactment of this subsection would not necessarily change the substantive operation of the Service, even though it might well have unintended adverse effects. It should be emphasized that under the longstanding provisions of the Canteen Service statute, the Administrator bears statutory responsibility for the operation of the Service. The Administrator's

8.

Honorable G.V. (Sonny) Montgomery

authority to delegate or assign specific duties relating to the Service to other VA officials does not have the affect of transferring that responsibility. And any officials making decisions about the Service under any delegated authority must ultimately answer to the Administrator for those decisions and implement policy approved by the Administrator. Section 9(b) would not enlarge the Administrator's ultimate responsibility for the Service, but only prevent the Administrator from carrying out that responsibility through delegated officials. In our view, it would be counter-productive to limit the Administrator's discretion to provide for the management of the VCS, especially since he bears ultimate responsibility for the VCS' operation whether he delegates related duties or not.

Finally the Administrator need not directly supervise VCS to ensure that it accomplishes its mission. All VA officials must act consistent with law, as well as their delegated duties, in carrying out policies established by the Administrator for the Service. Problems may arise but, as for any other element of the VA, can be resolved through appropriate action by the Administrator or other officials acting in his behalf. The policy disagreements aired at the recent hearing on the operation of the Service do not reflect an inadequacy in the VCS statute, but rather sincere differences over particular means adopted to implement the statute. We do not believe that legislation mandating organizational changes is warranted or will avoid the adoption of policies over which reasonable individuals may differ.

Section 10 would amend 38 U.S.C. § 618(b)(1) to broaden VA's authority to obtain therapeutic work for patients participating in compensated work therapy (CWT) programs. Under current law, VA may contract with non-federal entities (primarily private profitmaking businesses) to obtain therapeutic work projects for CWT participants. Section 10 would expand that authority and permit VA to enter into similar arrangements with VA facilities and federal entities to obtain therapeutic work for patients in the program. VA favors this proposal.

Pursuant to 38 U.S.C. 618(b)(1), enacted in 1976 as part of Public Law 94-581, VA operates CWT programs in medical centers throughout the nation. It is a proven cost-effective method of rehabilitation. VA program officials enter into contracts with businesses in the community to permit patients, as part of their medical rehabilitation, to perform work for the businesses. This work may take the form of either goods produced or services provided. Work is usually performed at the medical center, but may take place in another work setting. Businesses pay VA for the work performed under the contract, and those funds are deposited in the Special

9.

Honorable G.V. (Sonny) Montgomery

Therapeutics and Rehabilitation Activities Fund (STRAF), a revolving fund, authorized by 38 U.S.C. § 618(c), that receives no appropriated funds. VA, using funds in the STRAF, pays patients for their work in accordance with the Fair Labor Standards Act. 29 U.S.C. § 201 et seq.

Opportunities for therapeutic work for patients also exist in VA and other federal entities. Compensated work therapy programs are now legally prohibited from pursuing those opportunities, however. Section 618(b)(1) of title 38, as now drafted, limits CWT contractual arrangements to sources "outside the Veterans Administration." This proposal would amend section 618 to permit arrangements, contractual or otherwise, with any appropriate source of work including VA facilities and other federal entities. Enactment would permit new opportunities for growth in this valuable rehabilitation program.

Enactment of section 10 would not impose significant costs.

Section 11 would authorize the VA to appoint graduates of affiliated allied health-care education programs to competitive civil service positions without regard to competitive civil service procedures. This section adopts a VA legislative proposal.

However, VA prefers the streamlined language in section 4 of S. 2462 dealing with the same subject. VA does not favor proposed section 4106(h)(4) which would authorize the Administrator to make appointments of these graduates only upon recommendation of the Chief Medical Director. VA believes that this limitation will delay the appointment process much the same under civil service procedures. VA prefers that it have discretion to delegate appointment authority to the appropriate level.

Under its statutory health-care education mission, VA trains annually in clinical education programs in our facilities approximately 50,000 students in allied health-care occupations, including pharmacology, occupational therapy, psychology, social work, audiology, speech therapy, dietetics and recreational therapy. Yet, the complicated and often lengthy civil service process discourages many highly-qualified allied health-care graduates of VA-affiliated clinical education programs from taking jobs with the VA. By the time these graduates complete the process for placement on a civil service register and are certified to the VA, other health care employers have often already hired them. As a result, VA loses potential employees who are already VA-trained and whose potential for employment VA is in a position to evaluate. In this regard, currently VA

is experiencing staff shortages in some of these positions. This proposal would enable VA, without jeopardizing merit principles, to directly hire graduates of proven competence, who already are familiar with VA methods, without regard to the competitive service certification process.

VA's ability to hire these highly-qualified graduates would reduce administrative costs associated with the orientation and training of new employees.

There are no significant costs or savings associated with this proposal. VA favors its enactment.

Section 12 would direct that the VA conduct a pilot program to test an automated system for billing and collection of fees payable to the government in connection with several programs administered by the Department of Medicine and Surgery (DM&S). It would require VA to conduct the two-year pilot program in one of the DM&S medical regions. The test program would apply to fees charged to third parties, amounts due VA under sharing agreements, amounts VA may recover from insurance companies or other third party payors for care furnished to veterans, and copayments veterans agree to pay to receive VA care. The provision would also direct where VA must allocate the funds collected, and the uses the funds may be put to. VA must allocate twenty-five percent of the funds into the Treasury as miscellaneous receipts, twenty-five percent to the medical center which collected the funds, and fifty percent to accounts available to the Chief Medical Director. The provision requires VA to use all funds retained by the Agency either for benefits to enhance recruitment and retention of health care employees, or to supplement medical equipment accounts in medical centers where such funds are deficient. VA opposes the enactment of this provision.

VA strongly supports the use of automated billing and collection systems. The Agency has developed, and is now conducting final testing on an automated system for billing and collecting amounts recoverable from insurance companies or other third party payors for care furnished to veterans, and copayments veterans agree to pay to receive VA care. We hope to implement the new system nationwide in the next few months. That system could be expanded to include billing and collection of other charges such as those provided for by sharing agreements. Legislation directing that we establish an automated system is unnecessary and we would strongly oppose the enactment of legislation calling for a pilot effort which might imply the need for further legislation to launch a more comprehensive ongoing system.

11.

Honorable G.V (Sonny) Montgomery

VA opposes the funds allocation scheme that section 12 would impose. Under current law, the fees and charges in question are all covered over to the Treasury as miscellaneous receipts. This proposal would direct that VA retain the majority of funds collected. The purpose of the proposed change appears to be to encourage VA medical centers to improve billing and collection efforts by providing that the centers and the VA would be able to retain some of the funds collected. VA needs no such incentive, and, the proposal would unnecessarily complicate the existing budget process.

At this time VA does an excellent job of billing and collecting for the fees and charges in question. We expect to meet all collection targets set for this year. Billing and collection activities are the legal responsibility of the Agency, and should be undertaken without any extra incentive. Furthermore, we do not believe the incentive the provision attempts to create would be effective.

The funds in question are now considered proprietary receipts for budgetary purposes. Thus, no deduction is taken from the Agency budget, or the budgets of individual medical centers, in anticipation of collections. If medical centers and the Department of Medicine and Surgery retain some of the funds collected, the budget process would have to take that into consideration. Thus, the total funding available to the VA would not increase. The same thing is true with respect to the proposal's direction that retained funds be used to enhance recruitment and retention, and medical equipment accounts. Those two functions are best provided for in the normal budget process. If there is a need for funds for those purposes, centers may seek those funds in budget requests. Allowing some medical centers additional funds for those purposes because they collected monies from certain billings would only complicate the budget process, with no assurance that those centers would receive any more funds then they would have otherwise received.

Section 13 of H.R. 5114 would require VA to compile and maintain a complete and accurate list of CHAMPVA eligibles by October 1, 1988, and to establish procedures for periodic review of the cost effectiveness and appropriateness of health care provided. It also would charge the Inspector General to report to the committees on Veterans' Affairs regarding VA's compliance with these measures, and require the Administrator to report on and correct any deficiencies. Finally, it would require VA to study alternative methods for providing the cost of health care to CHAMPVA beneficiaries and to report on those alternatives within a year of enactment of this statute, and would authorize the appropriation of $500,000 to carry out this study.

12.

Honorable G.V. (Sonny) Montgomery

In view of the efforts underway to improve the administration of the CHAMPVA program, enactment of this proposal is unnecessary and we do not favor it. VA has already created a central CHAMPVA Registration Center (CCRC) and developed computer capability to cross reference DoD and DVB tapes as a means to verify and update CHAMPVA eligibility rolls. Matching procedures are on schedule with the target completion date and we anticipate having a complete and accurate listing of CHAMPVA beneficiaries available by October 1, 1988. In accordance with a subcommittee request made at a CHAMPVA oversight hearing held last March, VA provides quarterly reports as to the costs and effectiveness of the CHAMPVA health care program. Thus, the primary actions contemplated by the bill are already in place or well underway. Lastly, while we support in principle the need to study alternative means of providing CHAMPVA care, the time frame proposed in the law for completing such a study is too tight to provide meaningful data. VA only recently undertook total responsibility for administration of the CHAMPVA program. As we testified earlier this year, VA intends to alter the mechanism by which CHAMPVA beneficiaries receive VA-sponsored care. If VA is to conduct a meaningful study of alternative modes of providing for such care, it should be given sufficient time to implement and evaluate its own proposed changes, which presumably would be a benchmark against which other alternatives are measured. Further, VA is presently observing changes being implemented in the CHAMPUS system administered by DoD. As the two civilian health care systems are similar, VA would hope to include results on the effectiveness of the CHAMPUS program in considering any alternatives.

Section 14 would authorize the provision of VA health care to DoD dependents at VA facilities under VA/DoD sharing agreements. Currently, the law prohibits the provision to DoD dependents of VA health care in VA facilities under VA/DoD sharing agreements authorized by 38 U.S.C. § 5011(c). 38 U.S.C. § 5011(d)(1). The cost implications of this provision are very uncertain. Although savings might seem intuitively possible, we are unable to develop an estimate.

Currently, the Administration does not favor VA treatment of DoD dependents. However, we plan to work with DoD to give further consideration to this matter.

Section 15 would convert non-physician directors of VA medical centers to the Senior Executive Service (SES). Conversion would facilitate the placement of agency executives in that reassignments of personnel to or from VAMC director positions would not require movement between two different personnel systems. In addition, VA could take administrative actions based on performance or conduct of medical center directors

13.

Honorable G.V. (Sonny) Montgomery

more promptly and effectively under SES provisions. This would eliminate the existing costly and cumbersome disciplinary board procedure for these employees. Also, this provision would align the pay of non-physician VAMC directors with that of other agency executives through conversion to SES.

VA strongly supports this provision, but we suggest some modifications. We suggest that the phrase "without regard to subsections (b) - (e) of section 3393 of title 5," be added to the end of subsection (d). This is necessary in order to automatically convert these employees to career SES employees without having to follow the formal appointment process and probationary period set forth in those subsections. In addition the reference in subsection (d) to chapter 43 appears to be a clerical error. The correct reference is chapter 33.

We estimate a minimal cost from this provision (less than $100,000 per year) resulting from pay adjustments to the SES system.

The Office of Management and Budget advises that there is no objection from the standpoint of the Administration's program to the submission of this report on H.R. 5114 to the Congress.

Sincerely,

THOMAS K. TURNAGE
Administrator

Alvin C. York
Medical Center

3400 Lebanon Road
Murfreesboro TN 37130

Veterans
Administration

July 12, 1988

In Reply Refer To: 622/138

Honorable C. V. (Sonny) Montgomery
Chairman, Committee on Veterans Affairs
U.S. House of Representatives
335 Cannon House Office Building
Washington, D.C. 20515

Dear Mr. Montgomery:

This letter is written in response to your request for additional information concerning the proposed State Veterans Home. Enclosed is a letter dated May 28, 1986 wherein the State of Tennessee inquired concerning the potential availability of land. Our reply dated June 11, 1986 is enclosed wherein we indicated two possible locations. A letter dated May 17, 1988 requesting that the VA begin official actions which would allow the State to construct a 120-bed nursing care facility on our campus is enclosed. Our reply dated June 2, 1988 indicating our full support of the proposal is also included. This correspondence should provide a brief history of the proposal.

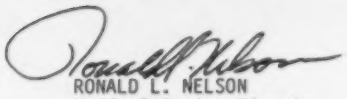
The exact amount of land required has not been determined. However, we have expressed a willingness to deed to the State or provide a long term lease for approximately ten acres in the southeast corner of the property. The land would be bounded on the south by Compton Road and on the east by Water Plant Road and the State of Tennessee (Middle Tennessee State University research farm). The property and proposed building could be integrally joined to the VA Nursing Home, Building 116 now under construction, or it could be separated by a lawn area. The minimum amount needed is estimated to be five acres and the maximum ten acres. The State has not yet determined their exact configuration desired, so a more precise land description is unavailable at this time. A map of the area is enclosed.

As you are aware, we have a very large long-term care veteran population. We are currently operating 179 intermediate medicine beds and 48 nursing home beds. We are looking forward to our new nursing home building to be completed by June, 1989. This will bring our total number of nursing home beds to 120. In addition, we have a large number of long-term care psychiatric patients. A state veterans nursing home unit on or near our facilities would promote the integration of our programs with the State programs for more efficient operation for all of us.

2.
Honorable C. V. (Sonny) Montgomery

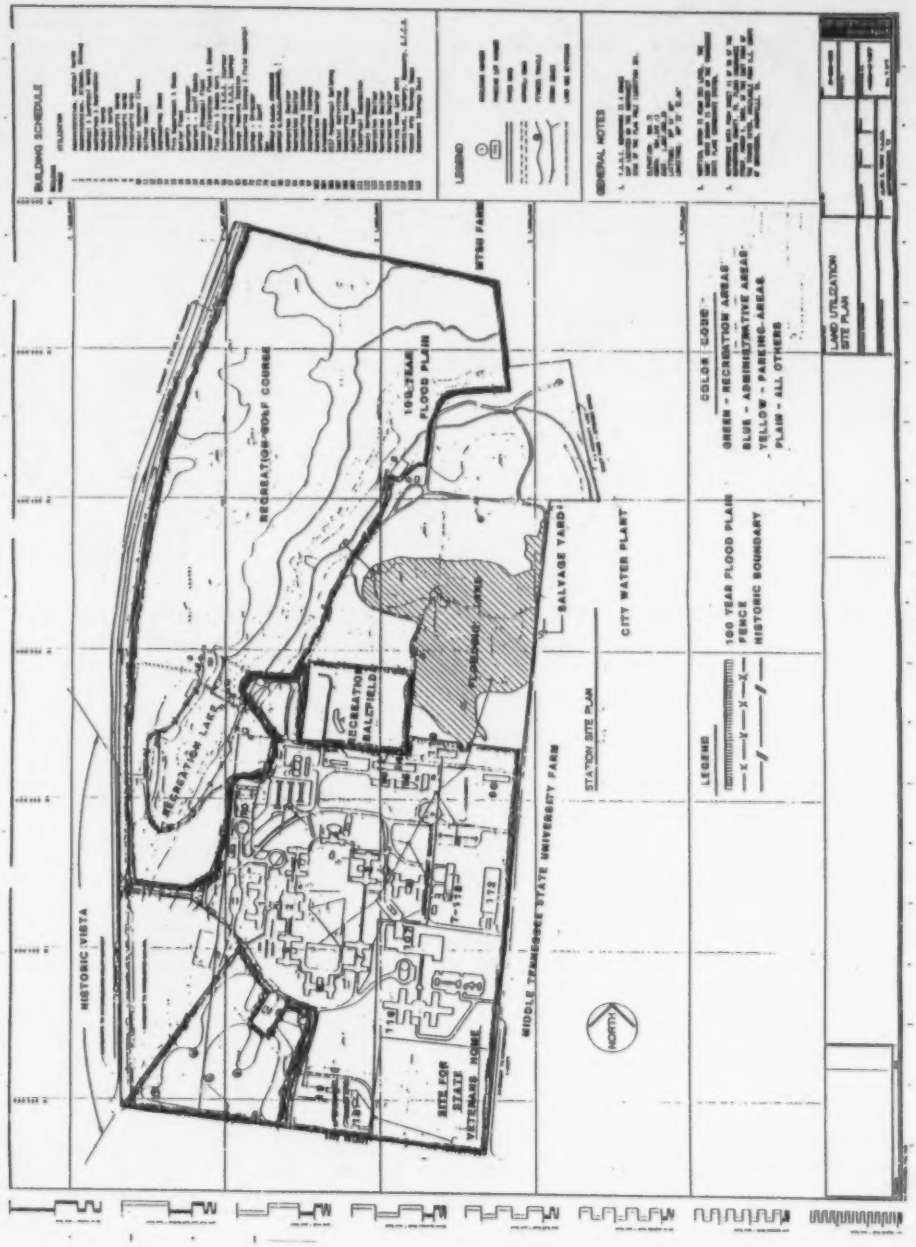
In summary, I support this proposal and feel that it will be in the best interest of the VA, the State, and the veterans in the State of Tennessee, if it can be accomplished with the policies of the Veterans Administration and within the laws passed by the United States Congress.

Sincerely,



RONALD L. NELSON
Medical Center Director

Enclosures



ATTACHMENT NO. 1

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as H.R. 5114 reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

TITLE 38—UNITED STATES CODE

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PART II—GENERAL BENEFITS

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CHAPTER 17—HOSPITAL, NURSING HOME, DOMICILIARY, AND MEDICAL CARE

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Subchapter II—Hospital Nursing Home or Domiciliary Care and Medical Treatment

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§ 618. Therapeutic and rehabilitative activities

(a) In providing rehabilitative services under this chapter, the Administrator, upon the recommendation of the Chief Medical Director, may use the services of patients and members in Veterans' Administration health care facilities for therapeutic and rehabilitative purposes. Such patients and members shall not under these circumstances be held or considered as employees of the United States for any purpose. The Administrator shall prescribe the conditions for the use of such services.

(b)(1) In furnishing rehabilitative services under this chapter, the Administrator, upon the recommendation of the Chief Medical Director, may enter into [contractual arrangements with private industry or other sources outside the Veterans' Administration] *a contract or other arrangement with any appropriate source (whether or not an element of the Veterans' Administration or of any other Federal entity).* To provide for therapeutic work for patients and members in Veterans' Administration health care facilities.

* * * * * * *

(c)(1) There is hereby established in the Treasury of the United States a revolving fund known as the Veterans' Administration Special Therapeutic and Rehabilitation Activities Fund (herein after in this section referred to as the "fund") for the purpose of [carrying out the provisions of] *furnishing rehabilitative services authorized in* subsection (b) of this section. Such amounts of the fund as the Administrator may determine to be necessary to establish and maintain operating accounts for the various rehabilitative

services activities may be deposited in checking accounts in other depositaries selected or established by the Administrator.

* * * * * * *

§ 620A. Treatment and rehabilitation for alcohol or drug dependence or abuse disabilities

(a)* * *

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(e) The Administrator may not furnish care and treatment and rehabilitative services under subsection (a) of this section after September 30, [1988] *1991.*

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Subchapter IV—Hospital Care and Medical Treatment for Veterans in the Republic of the Philippines

* * * * * * *

§ 632. Contracts and grants to provide for the care and treatment of United States veterans by the Veterans Memorial Medical Center

(a) The President, with the concurrence of the Republic of the Philippines, may authorize the Administrator to enter into contracts with the Veterans Memorial Medical Center, with the approval of the appropriate department of the Government of the Republic of the Philippines, covering the period beginning on October 1, 1981, and ending on September 30, [1989,] *1992,* under which the United States—

(1) will provide for payments for hospital care and medical services (including nursing home care) in the Veterans Memorial Medical Center, as authorized by section 624 of this title and on the terms and conditions set forth in such section, to eligible United States veterans at a per diem rate to be jointly determined for each fiscal year by the two Governments to be fair and reasonable; and

(2) may provide that payments for such hospital care and medical services provided to eligible United States veterans may consist in whole or in part of available medicines, medical supplies, and equipment furnished by the Administrator to the Veterans Memorial Medical Center at valuations therefor as determined by the Administrator, who may furnish such medicines, medical supplies, and equipment through the revolving supply fund pursuant to section 5021 of this title.

(b)(1) To further assure the effective care and treatment of United States veterans in the Veterans Memorial Medical Center, there is authorized to be appropriated for each fiscal year during the period beginning on October 1, 1981, and ending on September 30, [1989,] *1992,* the sum of [$500,000] *$1,000,000* to be used by the Administrator for making grants to the Veterans Memorial Medical Center for the purpose of assisting the Republic of the Philippines in the replacement and upgrading of equipment and in rehabilitating the physical plant and facilities of such center.

(2) Grants under this subsection shall be made on such terms and conditions as prescribed by the Administrator. Such terms and conditions may include a requirement of prior approval by the Administrator of the uses of the funds provided by such grants.

(3) Funds for such grants may be provided only from appropriations made to the Veterans' Administration for the specific purpose of making such grants.

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PART IV—GENERAL ADMINISTRATIVE PROVISIONS

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CHAPTER 53—SPECIAL PROVISIONS RELATING TO BENEFITS

Sec.
3101. Nonassignability and exempt status of benefits.

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3117. Use of income information from other agencies: notice and verification.

* * * * * * *

§ 3117. Use of income information from other agencies: notice and verification

(a) The Administrator shall notify each applicant for a benefit or service described in subsection (c) of this section that income information furnished by the applicant to the Administrator may be compared with information obtained by the Administrator from the Secretary of Health and Human Services or the Secretary of the Treasury under section 6103(l)(7)(D)(viii) of the Internal Revenue Code of 1986.

(b) The Administrator may not, by reason of information obtained from the Secretary of Health and Human Services of the Secretary of the Treasury under section 6103(l)(7)(D)(viii) of the Internal Revenue Code of 1986, terminate, deny, suspend, or reduce any benefit or service described in subsection (c) of this section until the Administrator takes appropriate steps to verify independently information relating to the following:

(1) The amount of the asset or income involved.

(2) Whether such individual actually has (or had) access to such asset or income for the individual's own use.

(3) The period or periods when the individual actually had such asset or income.

(c) The beneftis and services described in this subsection are the following:

(1) Needs-based pension benefits provided under chapter 15 of this title or any other law administered by the Veterans' Administration.

(2) Parents' dependency and indemnity compensation provided under section 415 of this title.

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[3] *Incorrect figure in initial report.*

(3) Health-care services furnished under sections 610(a)(1)(I), 602(a)(2)(A), 610(b), and 612(a)(2)(B) of this title.

(4) Compensation pursuant to a rating of total disability awarded by reason of inability to secure or follow a substantially gainful occupation as a result of a service-connected disability, or service-connected disabilities, not rated as total.

(d) In the case of compensation described in subsection (c)(4) of this section, the Administrator may independently verify or otherwise act upon wage or self-employment information referred to in subsection (b) of this section only if the Administrator finds that the amount and duration of the earnings reported in that information clearly indicate that the individual may no longer be qualified for a rating of total disability.

(e) The Administrator shall inform the individual of the findings made by the Administrator on the basis of verified information under subsection (b) of this section, and shall give the individual an opportunity to contest such findings, in the same manner as applies to other information and findings relating to eligibility for the benefit or service involved.

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PART V—BOARDS AND DEPARTMENTS

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CHAPTER 73—DEPARTMENT OF MEDICINE AND SURGERY

Subchapter I—Organization; General

* * * * * * *

§ 4101. Functions of Department

(a) * * *

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(e) Physicians, dentists, nurses, and other health-care professionals employed by the Department of Medicine and Surgery and appointed under section 4103, 4104(1), or 4114 of this chapter [and persons appointed under section 4103(a)(8) of this chapter] are not subject to the provisions of section 413 of the Civil Service Reform Act of 1978 or the following provisions of title 5: subchapter II of chapter 31, subchapter VIII of chapter 33, subchapter V of chapter 35, subchapter II of chapter 43, section 4507, subchapter VIII of chapter 53, and subchapter V of chapter 75.

§ 4103. Office of the Chief Medical Director

(a) The Office of the Chief Medical Director shall consist of the following—

(1) * * *

* * * * * * *

[(8) Such directors of hospitals, domiciliary facilities, medical centers, and outpatient facilities as may be appointed by

the Administrator upon the recommendations of the Chief Medical Director.]

[(9)] *(8)* Such other personnel as may be authorized by this chapter.

* * * * * * *

§ 4106. Period of appointments; promotions

(a) * * *

* * * * * * *

(h)(1) The Adminstrator may appoint qualified individuals in the competitive civil service without regard to the provisions of subchapter I of chapter 33 of title 5 (other than sections 3303 and 3328 of such title).

(2) For purposes of this subsection, qualified individuals are individuals—

(A) who have a recognized degree or certificate from an accredited institution in a health-care profession or occupation; and

(B) who were appointed to and have successfully completed a clinical education program affiliated with the Veterans' Administration.

(3) In using the authoirty provided by this subsection, the Administrator shall apply the principles of preference for the hiring of veterans and other persons established in subchapter I of chapter 33 of title 5.

(4) The Administrator may appoint an individual under this section only upon the recommendation of the Chief Medical Director.

§ 4107. Grades and pay scales

(a) * * *

* * * * * * *

[(c)(1) Notwithstanding any other provision of law, the per annum salary rate of each person serving as a director of a hospital, domiciliary facility, or center who is not a physician shall not be less than the salary rate which such person would receive under this section if such person's service as a director of a hospital, domiciliary facility, or center had been service as a physician in the director grade. The position of the director of a hosptial, domiciliary facility, or center shall not be subject to chapter 51 and subchapter III of chapter 53 of Title 5.

[(2) Nothwithstanding any other provision of this title, the terms and conditions of employment of any person to whom paragraph (1) of this subsection applies shall (except as provided in paragraph (3) of this subsection) be the same as those applicable under this title to a physician serving as a director of a hospital, domiciliary facility, medical center, or outpatient facility.

[(3) Nothwithstanding the provisions of section 410(e) of this title, any person to whom paragraph (1) of this subsection applies shall be deemed to be a career appointee for the purposes of sections 4507 and 5384 of title 5.]

* * * * * * *

(e)(1) * * *

(11) For purposes of this subsection, an employee of the Department of Medicine and Surgery who is a licensed practical or vocational nurse or a nurse assistant shall be treated in the same manner as a registered nurse.

* * * * * * *

(i) The Administrator may authorize an exception to the restrictions in subsections (a), (b), and (c) of section 5532 of title 5 if necessary to meet special or emergency employment needs which result from a severe shortage of well-qualified candidates in physician *or registered nurse* positions which otherwise cannot be readily met.

§ 4108. Personnel administration

(a) * * *

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(e) Any provision of this title limiting employment outside of the Veterans' Administration by an employee of the Veterans' Administration shall not apply to an employee who is appointed under the provisions of title 5 and paid under the provisions of this title.

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[§ 4118. Special pay for physicians and dentists] ***§ 4118. Special pay for physicians and dentists***

(a)(1) Notwithstanding the provisions of section 4107(d) or any other provision of law, in order to recruit and retain highly qualified **[**physicians and dentists**]** *physicians, dentists, and nurses* in the Department of Medicine and Surgery, the Administrator, pursuant to the provisions of this section and regulations which the Administrator shall prescribe to carry out this section, shall provide, in addition to any pay or allowance to which such **[**physician or dentist**]** *physician, dentist, or nurse* is entitled, special pay in an amount that (except as provided under subsection (d) of this section) is not more than (A) $22,500 per annum to any physician employed in the Department of Medicine and Surgery on a full-time basis (or in the case of a physician employed on a part-time basis, a proportional amount of the maximum amount that would be paid under this section to such physician if such physician were employed on a full-time basis, calculated on the basis of the proportion which the part-time employment of such physician in the Department of Medicine and Surgery bears to full-time employment), or (B) $10,000 per annum to any dentist so employed on a full-time basis (or in the case of a dentist employed on a part-time basis, a proportional amount of the maximum amount that would be paid under this section to such dentist if such dentist were employed on a full-time basis, calculated on the basis of the proportion which the part-time employment of such dentist in the Department of Medicine and Surgery bears to full-time employment), *or (C) $7,000 per year to any nurse so employed on a full-time basis (or in the case of a nurse employed on a part-time basis, a proportional amount of the maximum benefit that would be paid under this section to such nurse if such nurse were employed on a full-time basis, calculated on the basis of the proportion which the part-time employment of*

such nurse in the Department of Medicine and Surgery bears to full-time employment): except as provided in paragraphs (2) and (3) of this subsection, upon the execution, and for the duration, of a written agreement by such [physician or dentist] *physician, dentist, or nurse* to complete a specified period of service in the Department.

(2) Special pay may not be paid under this section to any physician [or dentist], *dentist, or nurse* who—

(A) is employed on less than a half-time or intermittent basis,

(B) occupies an internship or residency training position, or

(C) is a reemployed annuitant.

(3) The Chief Medical Director, in accordance with such regulations, may determine categories of positions appliable to both physicians [and dentists], *dentists, and nurses* in the Department of Medicine and Surgery as to which there is no significant recruitment and retention problem. Physicians [and dentists], *dentists, and nurses* serving in such positions shall not be eligible for special pay under this section. Not later than one year after making any such recruitment and retention determination and each year thereafter, the Chief Medical Director shall make a redeterminiation in accordance with such regulations.

(b) The Administrator shall exercise the authority contained in this section to provide—

(1) * * *

(2) primary special pay of $7,000 to any eligible full-time physician, or $2,500 to any eligible full-time dentist, *$1,500 to any eligible full-time nurse, or* appointed under this chapter; and

(3) a proportional amount of primary special pay of $7,000 to any eligible part-time physician, or of $2,500 to any eligible part-time dentist, *or of $1,500 to any eligible part-time nurse,* appointed under this chapter, which proportional amount shall be calculated on the basis of the proportion which the part-time employment in the Department of Medicine and Surgery of such [physician or dentist] *physician, dentist, or nurse* bears to full-time employment.

(c)(1) * * *

* * * * * *

(5) In the case of eligible full-time nurses appointed under this chapter, the Administrator shall provide, in addition to the primary special pay provided for in subsection (b)(2) of this section and in accordance with regulations prescribed to carry out this section, incentive special pay of not more than $5,500 to any eligible nurse. In prescribing such regulations to carry out this paragraph, the Administrator shall take into account only the following factors and may pay no more than the following per year amounts of incentive special pay to any full-time nurse eligible for such pay:

(A) For tenure of service within the Department of Medicine and Surgery of two years or more but less than five years, $500.

(B) For tenure of service within the Department of Medicine and Surgery of five years or more, $1,000.

(C) For service in intensive care units, critical care units, emergency rooms, or operating rooms or in a nursing specialty with respect to which the Chief Medical Director has deter-

mined that there are extraordinary difficulties in the recruitment or retention of qualified nurses, $4,000.

(D) For service in a specific geographic location with respect to which the Chief Medical Director has determined, pursuant to such regulations, that there are extraordinary difficulties in the recruitment or retention of qualified nurses, $1,500.

(E) For service in a head nurse position, $1,500.

(6) In the case of eligible part-time nurses appointed under this chapter, the Administrator shall provide, in addition to the primary special pay provided for in subsection (b)(3) of this section and in accordance with regulations prescribed to carry out this section, incentive special pay of not more than $5,500 to any eligible nurse. In prescribing such regulations to carry out this paragraph, the Administrator shall take into account only the following factors and may pay no more than a proportional amount of the following per year amounts of incentive special pay to any nurse eligible for such pay, which proportional amount shall be calculated on the basis of the proportion which the part-time employment in the Department of Medicine and Surgery of such nurse bears to full-time employment:

(A) For tenure of service within the Department of Medicine and Surgery of two years or more but less than five years, $500.

(B) For tenure of service within the Department of Medicine and Surgery of five years or more, $1,000.

(C) For service in intensive care units, critical care units, emergency rooms, or operating rooms or in a nursing specialty with respect to which the Chief Medical Director has determined that there are extraordinary difficulties in the recruitment or retention of qualified nurses, $4,000.

(D) For service in a specific geographic location with respect to which the Chief Medical Director has determined, pursuant to such regulations, that there are extraordinary difficulties in the recruitment or retention of qualified nurses, $1,500.

(E) For service in a head nurse position, $1,500.

[(5)**]** *(7)*(A) Except as provided in subparagraph (B) of this paragraph, a physician or dentist may not be provided incentive special pay under both clauses (A) and (B) of paragraph (1), (2), (3), or (4) (whichever is applicable) of this subsection.

(B)(i) A physician or dentist serving as a Service Chief (or in a comparable position as determined by the Chief Medical Director) on a full-time basis may be provided incentive special pay under subclauses (i) and (iii) of clause (A) as well as under clause (B) of paragraph (1) or (2) (whichever is applicable) of this subsection.

(ii) A physician or dentist serving as a Chief of Staff on a full-time basis may be provided incentive special pay under clause (A)(i) as well as under clause (B) of paragraph (1) or (2) (whichever is applicable) of this subsection.

(d) In determining—

(1) the total amount of special pay provided under this section to any **[**physician or dentist**]** *physician, dentist, or nurse* for the purpose of determining the applicability to the special pay of such **[**physician or dentist**]** *physician, dentist, or nurse* of the limitation specified in subsection (a) of this section on the total amount of such special pay; and

(2) the total amount of incentive special pay provided under subsection (c) of this section to any [physician or dentist] *physician, dentist, or nurse* for the purpose of determining the applicability to the incentive special pay of such [physician or dentist] *physician, dentist, or nurse* of the limitation specified in such subsection on the total amount of such incentive special pay.

there shall be excluded any special pay provided to such [physician or dentist] *physician, dentist, or nurse* under subsection (c)(1)(D), (c)(2)(C), (c)(3)(D), [or (c)(4)(C),] *(c)(4)(C), (c)(5)(D), or (c)(6)(D)* of this section for service in certain geographic locations.

(e)(1) Any agreement entered into by a [physician or dentist] *physician, dentist, or nurse* under this section shall be with respect to a period of one year of service in the Department of Medicine and Surgery unless the [physician or dentist] *physician, dentist, or nurse* requests an agreement for a longer period of service not to exceed four years. Any [physician or dentist] *physician, dentist, or nurse* who entered into an agreement under this section and has not failed to refund any amount which such [physician or dentist] *physician, dentist, or nurse* became obligated to refund under any such agreement shall be eligible to enter into a subsequent agreement under this section.

(2)(A) Any such agreement shall provide that the [physician or dentist] *physician, dentist, or nurse* in the event that such [physician or dentist] *physician, dentist, or nurse* voluntarily, or because of misconduct, fails to complete at least one year of service, or such lesser period of service as provided for in the final sentence of paragraph (1) of this subsection, pursuant to such agreement, shall be required to refund the total amount received under this section, unless the Chief Medical Director determines, in accordance with regulations prescribed under subsection (a) of this section, that such failure is necessitated by circumstances beyond the control of the [physician or dentist] *physician, dentist, or nurse.*

(B) Any such agreement shall specify the terms under which the Veterans' Administration and the [physician or dentist] *physician, dentist, or nurse* may elect to terminate such agreement.

* * * * * * *

(4)(A) * * *

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(D) any nurse who becomes employed in the Department of Medicine and Surgery after the date of the enactment of this subparagraph and who enters into an agreement under this section is entitled to special pay beginning on the date on which the agreement is entered into, or the date on which the nurse becomes employed, whichever date is later.

(5) An agreement may only be entered into with a nurse under this section if the nurse is a registered nurse and is an employee of the Department of Medicine and Surgery whose duty assignments involve direct patient care.

(6) A nurse who is eligible for additional pay under section 4107(g)(1) of this title and special pay under this section may not receive such special pay under this section unless the nurse waives re-

ceipt of additional pay under section 4107(g)(1) of this title in an amount equal to the amount of special pay payable under this section.

* * * * * * *

(i) During fiscal year 1989—

(1) subsection (b) shall be applied by substituting "$1,000" for "$1,500" in paragrpahs (2) and (3); and

(2) subsections (c)(5) and (c)(6) shall be applied—

(A) by substituting "$500" for "$1,000" in subparagraph (B);

(B) by substituting "$2,000" for $4,000" in subparagraph (C); and

(C) by substituting "$1,000" for $1,500" in subparagraphs (D) and (E).

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CHAPTER 75—VETERANS' CANTEEN SERVICE

* * * * * * *

§ 4203. Operation of Service

(a) * * *

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(c) A contract or other agreement may not be made by or on behalf of the Service for performance by an individual not directly employed by the United States of any activity otherwise performed by an individual employed by the United States who is compensated with nonappropriated funds.

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§ 4208. Service to be independent unit

[It is the purpose of this chapter that, under] *Under the* control and supervision of the Administrator, the Service shall function as an independent unit in the Veterans' Administration and shall have exclusive control over all its activities including sales, procurement and supply, finance, including disbursements, and personnel management, except as otherwise provided in this chapter. *The head of the Service may not be required to report to or be supervised by any official of the Veterans' Administration other than the Administrator and Deputy Administrator.*

PART VI—ACQUISITION AND DISPOSITION OF PROPERTY

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CHAPTER 81—ACQUISITION AND OPERATION OF HOSPITAL AND DOMICILIARY FACILITIES; PROCUREMENT AND SUPPLY

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Subchapter I—Acquisition and Operation of Medical Facilities

* * * * * * *

§ 5009. Parking facilities

(a) * * *

* * * * * * *

(c)(1) Except as provided in [paragraph (2)] *paragraphs (2) and (3)* of this subsection, each employee, visitor, and other individual having business at a medical facility for which parking fees have been established under subsection (d) or (e) of this secton shall be charged the applicable parking fee for the use of a parking facility at such medical facility.

(2) A parking fee shall not be charged under this subsection for the accommodation of any vehicle used to transport to or from a medical facility—

(A) a veteran or eligible person in connection with such veteran or eligible person seeking examination or treatment; or

(B) a volunteer worker (as determined in accordance with regulations which the Administrator shall prescribe) in connection with such worker performing services for the benefit of veterans receiving care at a medical facility.

(3) A parking fee under this subsection may be waived in the case of any health-care employee who is eligible for an increase in basic pay under section 4107(g)(1) of this title.

[(3)] *(4)* The Administrator shall collect (or provide for the collection of) parking fees charged under this subsection.

(d)(1) * * *

* * * * * * *

(3) A schedule of parking fees prescribed pursuant to paragraph (1) of this subsection for a parking facility acquired by lease may be in effect only during the period of the original term of the first lease by the Veterans' Administration of that facility.

(e) The Administrator may prescribe a schedule of parking fees for the parking facilities at any medical facility not referred to in subsection (d) of this section. Any such schedule shall be designed to establish fees which the Administrator determines to be reasonable under the circumstances and shall cover all parking facilities used in connection with such medical facility. *A schedule of parking fees prescribed pursuant to this subsection for a parking facility acquired by lease may be in effect only during the original term of the first lease by the Veterans' Administration of that facility.*

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§ 5011. Sharing of Veterans' Administration and Department of Defense health-care resources

(a) * * *

* * * * * * *

(d)(1) * * *

* * * * * * *

(6) To the extent that the Veterans' Administration employs additional personnel at any medical center in order to support services provided to the Department of Defense under an agreement under this subseciton, such personnel may not be counted for the purposes of any limitation on the number of full-time equivalent employees that the Veterans' Administration may have for any fiscal year.

* * * * * * *

(g) For the purposes of this section:

(1) * * *

* * * * * * *

(5) The term "primary beneficiary" (A) with respect to the Veterans' Administration means a person who is eligible under this title (other than under section 611(b) or 613 or subsection (d) of this section) or any other provision of law for care or services in Veterans' Administration medical facilities, and (B) with respect to the Department of Defense, means a member or former member of the Armed Forces who is eligible for care under section 1074 of title 10 *or a dependent (as defined in section 1072(2) of such title) who is eligible for care under section 1076 of such title.*

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SECTION 6103 OF THE

INTERNAL REVENUE CODE OF 1986

SEC. 6103. CONFIDENTIALITY AND DISCLOSURE OF RETURNS AND RETURN INFORMATION.

(a) * * *

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(l) DISCLOSURE OF RETURNS AND RETURN INFORMATION FOR PURPOSES OTHER THAN TAX ADMINISTRATION.—

(1) * * *

* * * * * * *

(7) DISCLOSURE OF RETURN INFORMATION TO FEDERAL, STATE, AND LOCAL AGENCIES ADMINISTERING CERTAIN PROGRAMS UNDER THE SOCIAL SECURITY ACT [OR THE FOOD STAMP ACT OF 1977], THE FOOD STAMP ACT OF 1977, OR TITLE 38, UNITED STATES CODE.

(A) * * *

* * * * * * *

(D) PROGRAMS TO WHICH RULE APPLIES.—The programs to which this paragraph applies are:

(i) aid to families with dependent children provided under a State plan approved under part A of title IV of the Social Security Act;

(ii) medical assistance provided under a State plan approved under title XIX of the Social Security Act;

(iii) supplemental security income benefits provided under title XVI of the Social Security Act, and federal-

ly administered supplementary payments of the type described in section 1616(a) of such Act (including payments pursuant to an agreement entered into under section 212(a) of Public Law 93–66);

(iv) any benefits provided under a State plan approved under title I, X, XIV, or XVI of the Social Security Act (as those titles apply to Puerto Rico, Guam, and the Virgin Islands);

(v) unemployment compensation provided under a State law described in section 3304 of this title;

(vi) assistance provided under the Food Stamp Act of 1977; [and]

(vii) State-administered supplementary payments of the type described in section 1616(a) of the Social Security Act (including payments pursuant to an agreement entered into under section 212(a) of Public Law 93–66[.]; *and*

(viii)(I) any needs-based pension provided under chapter 15 of title 38, United States Code, or any other law administered by the Veterans' Administration;

(II) parents' dependency and indemnity compensation provided under section 415 of title 38, United States Code;

(III) health-care services furnished under sections 610(a)(1)(I), 610(a)(2)(A), 610(b), and 612(a)(2)(B) of such title; and

(IV) compensation pursuant to a rating of total disability awarded by reason of inability to secure or follow a substantially gainful occupation as a result of a service-connected disability, or service-connected disabilities, not rated as total (except that, in such cases, only wage and self-employment information may be disclosed).

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